

A HISTORY OF THE NLRB JUDGES DIVISION

With Special Emphasis on the Early Years



By Richard J. Linton, Administrative Law Judge (Retired)
National Labor Relations Board

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August 1, 2004

COVER PICTURE

The cover picture is a copy of the one taken of attendees at the May 1942 Trial Examiners Conference in Annapolis, Maryland. This photograph is reproduced, and the attendees are discussed, beginning at page 58. As there explained, Phoebe Smith Ruckle, of Charleston, West Virginia, graciously supplied a copy for this paper. Her grandfather, Judge Edward Grandison Smith, is one of the judges in the picture. Credit for the inspired thought of placing a copy of the photograph on the cover goes to David B. Parker, the NLRB's Deputy Executive Secretary.

DEDICATION

In grateful memory of the early-day judges of the National Labor Relations Board. They labored when the sun was high, the winds hot, and the honors few. The rest of us have followed in relative comfort, security, and respect.

PUBLICATION DATE

In this year of 2004, the August 1 publication date of this book is chosen to mark the 66th anniversary of the decision by the Board to switch, effective August 1, 1938, from a system of hiring most of its judges ("Trial Examiners," then) as day laborers ("per diem" judges), to a system of employing us as regular-staff salaried employees of the Federal Government. This book was printed by the NLRB in October 2004.

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NOTE: Judge Linton undertook to write this book as a retirement project. He retired on November 2, 2001, after serving over 21 years as an NLRB judge.

FOREWORD

You can almost hear Tom Kessel's gruff bark and smell Tom Ricci's lit cigar emanating from the pages of Judge Linton's magnificent historical piece. He captures the context of the early years of the Board in his own inimitable style and the comprehensive roster of all people who ever served as regular-staff NLRB trial examiners or judges is alone a justification for his efforts. The evolution of the judge's position at the NLRB is well documented, but some things do not change. Ironically, as Judge Linton mentions, the old-time practice of using part-time, per-diem trial examiners, who apparently worked out of their homes, is echoed, in some respects, by today's computer-age use of full-time, regular work-at-home judges.

Hopefully, no present-day judges will be hanged in effigy, as was Judge Edward Grandison Smith during the Weirton Steel trial. But they still have their share of contentious cases and have to sign and stand by their decisions, sometimes by announcing them from the bench in the presence of the losing party. Anyone who has presided over or participated in Board hearings will appreciate Judge Linton's paean to those triers of fact who have contributed mightily to justice in the workplace during the almost 70 years of Board history.

August 1, 2004
Washington, DC

Robert A. Giannasi
Chief Administrative Law Judge
National Labor Relations Board

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ACKNOWLEDGEMENTS and GOALS

This personal project could not have begun without the courtesy of Chief Judge Robert Giannasi who, in January 2002, sent me copies of the available Division rosters. (A couple of these rosters, from many years ago, were called "Seniority List." In this paper, they all are simply called "rosters.") Thereafter, Judge Giannasi drafted a list of the Chief Judges. For the most part, the list that he drafted is the one which appears in this paper. Still later Judge Giannasi sent me a copy of the 1945 Trial Examiner's Manual (itself an historical document). Along the way he has looked at most every step of the paper-in-progress. And when a full draft was finally available, he did a proofreading "sweep" through the full draft. Nearly all his many suggestions and ideas are incorporated into this paper, even if only one or two are mentioned specifically. I am most grateful to him for his courtesies and assistance. I hasten to emphasize that this paper is not an official (or even authorized) publication of the Board or its Division of Judges, and I do not suggest that the courtesies extended to me by Judge Giannasi or others in any way shows that they endorse or approve of the format or statements reflected in this paper.

(Respecting the "1945" Trial Examiner's Manual, Judge Giannasi cautions that the "1945" appellation is his terminology based on the fact that he found it, marked "Draft," in a file with several 1945 memos attached. It may have been "a work in progress" dating back before 1942. The dates of the memos, plus 1945 being the last year before the Administrative Procedure Act was enacted, persuaded Judge Giannasi to dub the document the "1945" Trial Examiners Manual.)

On my first draft (2-4-2002) of the List of Judges, there were many gaps for the EOD (entered on duty) dates and incomplete names. (Particularly during the last 40 years or so, the Agency, by press releases, has announced the appointments of judges to the Division. Unfortunately, I did not retain copies of all the press releases that I received.) Only by the invaluable interest and search of records by the now-retired Division Staff Assistant Anna Marie Wehausen (ably assisted by Carletta Davidson), did most of those gaps (those principally after about 1961) get filled with EOD dates and additional names. I am most grateful to them. Also, as a precautionary word in their defense, note that I am the one responsible for using, wisely or not, the "deemed" (approximated) EOD date option, described later, that is applied at times in the List of Judges. Ms. Wehausen's successor, Administrative Specialist Malissa Lambert, graciously has carried forward with the same pattern of courteous helpfulness.

For example, Ms. Lambert has been a great help in sending me, on temporary loan from Chief Judge Robert Giannasi, the Division's copy of the panoramic group photo of attendees at the Agency's 1938 conference, plus copies of the group photos of the Judges 1985 and 1990 training conferences at, respectively, Virginia Beach, Virginia and Ellenville, New York. Several judges (including Judges Giannasi, William Cates, William Schmidt, Martin Linsky, and Bruce Rosenstein, plus key support and assistance from Eleanor ("Ellie") Harvey in the General Counsel's Office of Employee Development) willingly helped in the identification process needed for some of the judges in the 1985 and 1990 group photographs, as well as for some of the judges in the 2000 group photograph for the Judges conference at Reno, Nevada.

It is Ellie Harvey, an employee development specialist with the General Counsel's Office of Employee Development, who coordinated the arrangements with the Division, the program speakers, and the outside facilities for the Division's training conferences of 1985 (Virginia Beach, VA), 1990 (Ellenville, NY), and 2000 (Reno, NV). Ellie graciously searched in her files, not only, as noted above, to help in the identification process mentioned above, but also to assist in finding, to the extent possible, the photographers. Her help is gratefully appreciated.

In light of the important assistance of the four ladies, it is fitting that their photo images be included in the paper; and here they are:



Anna Marie
Wehausen



Carletta
Davidson



Malissa
Lambert



Ellie Harvey

Former Chief Judge David S. Davidson (now retired) contributed very helpful clarifications for the List of Judges, as did former Associate Chief Judge Hutton S. Brandon (Atlanta; now retired). Judge William Pannier (a former Deputy Chief Judge at the San Francisco office; now retired) gave helpful information concerning the approximate year that the San Francisco office opened. I thank them for their time and help. Before leaving this group of names, I need to emphasize that Judge Davidson has helped on several occasions. More than once Judge Giannasi has observed that Judge Davidson has “the best institutional memory of the Division.” Judge Davidson has been both patient and generous in sharing that institutional memory, and his assistance has been invaluable.

I am very grateful to Deputy General Counsel John Higgins (he of most every position at the NLRB) for alerting me to the existence of the LIFE magazine article about Weirton Steel Company. One section of the paper is devoted mostly to the Weirton Steel case. John Higgins also located and graciously faxed to me a copy of the Agency’s November 8, 1937 press release announcing the appointment of George O. Pratt as the Chief Trial Examiner, a matter I cover later in the section on the chief judges.

The Agency has an internal newsletter — *All Aboard* — that has a nine-member editorial board (including John Higgins and Enid Weber) and whose editor is Kenneth E. Nero, chief of the Agency’s library section. Beginning in its May 2003 issue, *All Aboard* began a series “based upon excerpts from” (a draft of) this paper, plus some added “historical references.” Besides her excellent work in organizing and presenting (under severe space limitations) the abbreviated excerpts from a draft of this paper, Associate Executive Secretary Enid W. Weber’s addition of the “historical references” (covering the Regional Offices and other divisions of the Agency besides that of the Judges) gave the series a professional quality.

Surely I must acknowledge the place where I did most of my research, the law library at South Texas College of Law, in Houston, Texas. And I say “Many Thanks” not only to that law school, but also to the gracious reference librarian, there, Jessica Alexander. Toward the close of my work, and when she learned of the noncommercial and historical nature of this paper, Ms. Alexander generously gave of her time and talent on WestLaw, and the Google

search engine, either to confirm my research on a name or to fill a gap, and then gave me the printouts. She is a gracious, kind, friendly, and helpful person, and a great librarian.



Jessica Alexander — Reference Librarian,
South Texas College of Law
Houston, Texas

And I must not fail to give thanks to Division Office Managers Susan George, at San Francisco, and Willene Heflin, at Atlanta, for their occasional help in checking files for answers to questions I had regarding the arrival date of a judge or two.

This final acknowledgment is for my wife, Marcia, who wondered whether I would ever complete this “retirement” project, but who nevertheless maintained our home and tolerated my inattention to all the weeds sprouting in our yard and flowerbeds. I am blessed. May the Lord bless her for her charity, patience, and love.

The List of Judges is off to a good start. My goals, however, have been limited. My intention has been to research in the Board's bound decisions only far enough to find the data needed to deem original EOD dates not otherwise available for most of the 27 names on what I call the LOS (List of Separations, July 1, 1949, through November 15, 1961). Many of these names do not show up either in the early years or on the first available roster of judges, that roster being dated January 10, 1957. My limited goals included reaching trials occurring about the time of the second available judges roster, this second one dated March 7, 1961. These items, plus finding the names of the regular-staff judges who presided during the early years, but who left before either the LOS or the roster of January 10, 1957, formed my primary goals.

Actually, I have extended beyond 1961. In the bound volumes, I turned the pages through NLRB Volume 271. I then moved to the Board's website, where the reported Board decisions begin with Volume 272, and continued there by clicking on each unfair labor practice case, proceeding through Volume 315. (The latter covers Board decisions extending into January 1995.) I am fairly confident that virtually all of the regular-staff judges not named on the rosters, from the early years through the time of the January 1992 Division roster, have been found. To that extent, I have exceeded my limited goals.

Perhaps the balance of the 1990s, from January 1992 up to the Division's alphabetical roster of March 1999 (rosters after that are both available and reasonably frequent), can be inspected before the first annual supplement for this paper issues, it is hoped, on August 1, 2005. This inspection of the decisions of the Board in the bound volumes for those years (meaning NLRB Volumes 316 through about Volume 332, the latter covering Board decisions into January 2001) would serve to locate the name of any Division Judge who served a relatively short time, perhaps even just a few weeks or months, and who came and left between the January 1992 roster and that of March 1999. Hopefully, the several judges who have been with the Division during the 1990s will be able, from their collective memories, to recall whether the ABC List or EOD List in this paper is missing one or more names of Division Judges. The impression here is that probably no names are missing.

There is room for improvement on the start made by this paper, and hope that names will be added as new judges arrive. Most of all I am grateful that, by the aid and courtesies that were extended, all of us will have this List of Judges as a source for confirming, and remembering, that a particular person served on the Division's regular staff as a trial judge for the National Labor Relations Board.

So now, kick back with a copy of this paper. Put on an old 45 from the 1950s (well, a CD version would not be as scratchy), listen to **The Four Lads** singing that 1955 classic song by Al Stillman and Robert Allen, ***Moments To Remember***, and pause at these lines:

When other nights and other days
may find us gone our separate ways,
We will have these moments to remember.

August 1, 2004
Katy, Texas


Richard J. Linton
Administrative Law Judge (retired)
(EOD 7-13-1980; Retired 11-2-2001)
rjlinton@msn.com

P.S.

The book format that you are reading, or the book format on the Agency's website/Surfboard that you are reading over the Internet, is an unplanned, but pleasing, development. Much appreciation is owed to three individuals for the format of what you are viewing. These three are Deputy

Executive Secretary David B. Parker, Barbara L. Smith, Chief, Editorial and Publications Services Section, and Gladys R. Hardy, Senior Editor.

As the paper was approaching completion, Chief Judge Giannasi asked David Parker about the possibility of having the Agency's Print Shop bind the paper and run some copies for distribution on a limited basis. Their discussion has evolved into the format you see. Indeed, it was David Parker's idea that the cover be a reproduction of the picture of the attendees at the May 1942 Trial Examiners Conference in Annapolis, Maryland. Dave Parker asked Editorial to format the paper for presentation in book form, or for posting on the Board's website/Surfboard, and they willingly launched into that tedious project. That which you see is the result of Barbara Smith's and Gladys Hardy's prodigious and graceful efforts. I am very grateful to them.

	<p>Deputy Executive Secretary David B. Parker</p> <p>It was his inspired idea that the front cover be a reproduction of the attendees at the May 1942 Trial Examiners Conference</p>
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PHOTOGRAPH CREDITS

Several photos, including snapshots, appear in the paper. Most are listed in the Table of Contents. When they appear in the paper, the source generally is either acknowledged or implied. Some of the photos have appeared in publications that are identified, such as NLRB publications. A few of the photos deserve mention here.

1. Photo of George O. Pratt page 24

This is the picture of George Pratt as a 21-year old member of the 1925 graduating class of Yale College (Yale University's name at the time). In October 1937, George O. Pratt became the first person appointed to the newly created office of the Chief Trial Examiner of the NLRB.

2. Photo of Judge Ringer, 1938 page 30

This is a 1938 photo of Judge William Ringer emerging from an apparent "bench view" of a lead and zinc mine in Picher, Oklahoma. It is a copy of the photo that appears in *The First Sixty Years, The Story of the National Labor Relations Board, 1935-1995* at 13 (ABA, 1995).

3. Individual Photos of Some DC Judges pages 48-53

4. Photos of Some San Francisco Judges pages 54-55

5. Photo of Atlanta Judges, 1981 page 56

This snapshot was taken with Judge Hutton S. Brandon's camera. For years after the film was first developed, it was feared that the negatives were lost. Credit for their discovery goes to Associate Chief Judge William N. Cates who found them in late April 2003, and graciously supplied copies of the relevant photographs for this paper.

6. Photo of Judges, May 1942 page 58

As with the photo of Judge Ringer, a group photo of the attendees at the May 1942 Trial Examiners' conference held in Annapolis, Maryland, also appears in *The First Sixty Years* at 19. As discussed in the paper, the particular copy of the photo used here was graciously supplied by Phoebe Smith Ruckle of Charleston, West Virginia, a granddaughter of Judge Edward Grandison Smith, one of the attendees.

7. Photo of Attendees at November 15, 1938 Agency Training Conference, Washington, DC pages 64-66

This photo is reproduced at page 28 of the Board's publication, *NLRB, The First 50 Years* (photo number 2 on the page), and can be viewed, in its reduced size, at page 17 (photo number 3) of the Board's commemorative publication, *The First Sixty Years*. To fit into this paper, it is divided into three panels.

8. Photo of Judges, 1985 page 126

Group photo taken at 1985 Judges Conference at Virginia Beach, VA.

9. Photo of Judges, May 1990 page 129

Group photo taken at Judges Conference at Ellenville, NY.

10. Photo of Judges, May 2000 page 136

This photo is of the attendees at the May 2000 Judges Conference held in Reno, Nevada. The photo appears courtesy of the commercial photographer, DeCapua's Photography of Reno, Nevada.

REFLECTIONS

Counting our blessings is a useful exercise. Today, Federal administrative law judges enjoy an occupational position that the United States Supreme Court has described as “functionally comparable” to that of, in effect, U.S. District Judges. *Butz v. Economou*, 438 U.S. 478, 513 (1978). That material differences exist between the two positions does not lessen the esteem that NLRB judges have gained since Congress created the Agency in 1935.

Such esteemed positions did not suddenly appear one day fully robed. If asked to name some of the advancements that have been made over the last 69 years, NLRB judges (to focus on our own Agency) could include the following events among the improvements for their positions:

1. 1938 — By change in its policy, effective August 1, 1938, the Board switches the Trial Examiners Division from a mostly per diem staff to a roster of solely regular-staff judges. Of all the improvements in the lot of NLRB judges, this early change (probably the least known of those on this list) arguably is the most important. It is discussed in the Introduction that follows.

2. 1946 and 1947 — Decisional independence. (Mandated by the Administrative Procedure Act, and reinforced the following year in Section 4 of the National Labor Relations Act, as amended by the Taft-Hartley Act.) For any who may take this blessing for granted, the following lines from Senate Report No. 105 should infuse some appreciation for the statutory prohibition:

Under current practice, before a trial examiner issues his report to the parties, its contents are reviewed and frequently changed or influenced by the supervisory employees in the Trial Examining Division. Yet, since the report is signed only by the trial examiner, the Board holds him out as the sole person who has made a judgment on the evidence developed at the hearing. * * * Consequently, the committee bill prohibits any of the staff from influencing or reviewing the trial examiner’s report in advance of publication, thereby obviating the need for reviewing personnel in the Trial Examining Division.

1 Legislative History of the Labor Management Relations Act, 1947 at 415 (NLRB, 1948).

3. 1950 — Board solidifies policy of attaching “great weight” to judges’ credibility findings “insofar as they are based on demeanor.” *Standard Dry Wall Products*, 91 NLRB 544, 545 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951).

4. 1951 — About January 1951, the Agency opens a Judges Branch in San Francisco, thereby reducing the tremendous travel burden on the judges. Before then, judges had to travel from Washington, D.C. to all areas of the country. A lot of travel before 1951 was still by train. Thus, as former Chief Judge George O. Pratt reported in a March 18, 1970 oral history interview, when judges left for trials and representation case hearings on the West Coast, or other areas remote from the Washington office, they might be gone from a month to “two or three months at a time.” (*Pratt* at 125-127; full cite given later at “Sources.”) And as commercial air travel developed, particularly jet travel that began in the United States in January 1959 with the *Boeing 707*, the travel burden was reduced even more for all judges.

5. 1951 — *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 27 LRRM 2373 (2-26-1951) (Intermediate Reports of Trial Examiners are part of the “record” for applying the substantial evidence test). Before this pronouncement, and prior to the Taft-Hartley amendments, Intermediate Reports of the NLRB’s trial examiners appear to have been assigned no more weight by commentators or courts than these persons or tribunals would have given an “interoffice memorandum.” *NLRB v. Botany Worsted Mills*, 133 F.2d 876, 882-883 (3d Cir. 1943) (citing “Pike and Fischer, Administrative Law”). Today, factual findings of administrative law judges, especially those turning on credibility resolutions depending on an assessment of witness demeanor, enjoy substantial deference from the several United States courts of appeal. See Hardin and Higgins, 2 *The Developing Labor Law* 2585-2587 (2001, 4th ed.).

6. 1972 — Title changed from “Trial Examiner” to “Administrative Law Judge” by U.S. Civil Service Commission regulation on August 19, 1972, and by Congressional statute on March 27, 1978. See Prof. Morell E. Mullins, *Manual for Administrative Law Judges* at 2 fn. 7 (2001 Interim Internet Edition; www.oalj.dol.gov/libapa.htm#apa). When the Board first announced this in one of its published decisions, Judge Benjamin K. Blackburn is the judge who, by the coincidence of timing, received the honor of being the first NLRB “Trial Examiner” to be recognized, by the legal change in the position title, as an Administrative Law Judge. *Globe-Union*, 199 NLRB 80 fn. 1 (Sept. 14, 1972).

7. 1978 — *Butz v. Economu*, 438 U.S. 478, 513 (1978) (declaring ALJs to be “functionally comparable” to judges).

8. 1996 — After a 1-year experiment, NLRB rules changed to permit bench decisions. 29 CFR § 102.35(a)(10).

9. 1996 — NLRB rules changed to render post-trial briefs at judge’s discretion after notice at trial. 29 CFR § 102.42.

Pause for a moment. Feel a sense of the time — the late 1930s and the early 1940s. It was the last part of the Great Depression and the first years of World War II. Effective October 24, 1939, the Federal minimum wage increased by a nickel to 30 cents per hour, and that is where it remained until 6 years later (October 24, 1945) when it went to 40 cents an hour. For 1939 the President’s salary was \$75,000 — as it had been since 1909. (It went to \$100,000 in 1949.) The Federal income tax rate on the lowest tax bracket for 1939 was (after a deduction of 10 percent of earned income), 4 percent of taxable income up to \$4000. On the top bracket the rate was 79 percent for taxable income over \$5 million. Frederick Lewis Allen, author of that informal history of the 1920s, *Only Yesterday* (1931, 1959), reminds us as follows in his sequel for the 1930s, *Since Yesterday* (1939, 1972), at 334:

An uncertain climb out of the pit of the [1937-1938] Recession brought the Federal Reserve Board's adjusted index up to 102 in August, 1939. But that was only a shade higher than the point it had reached during the New Deal Honeymoon; and still there were nine and a half million people unemployed.

Less than a month after the Federal Reserve’s index went to 102, distant drums sent ominous vibrations all the way to America, for on September 1, 1939, Hitler’s Germany invaded Poland. Still, from that time of lost wealth and severe hardships of the Great Depression, and the sound of approaching war drums, 1939 produced some memorable achievements. With many of its 770 or so photos coming from the archives of the old *Life* magazine, editor Richard B. Stolley’s *Life: Our Century In Pictures* (1999, Bullfinch Press), at 148-153, pronounces 1939 “The Greatest Year in Hollywood — Ever.” People lined up to see *Gone With The Wind*. From another wonderful film of that year, *The Wizard of Oz*, who can ever forget Judy Garland’s singing of (*Somewhere Over The Rainbow*? Author John Steinbeck wrote *The Grapes of Wrath* (and it became a 1940 motion picture of the same name). Union songs were popular with workers, and the 1938 song *Joe Hill* was a big hit. Two years later, in 1940, Woody Guthrie wrote *Union Maid*, a favorite to this day for many.

Referencing the “Grapes of Wrath” should remind us all of some of the hardships that Americans endured during that time. In the 1930s, and particularly the years of 1935 to 1938, a great drought afflicted the Great Plains

States. When the NLRB was opening for business in 1935, farm families in several States decided to escape from the drought and dust storms. Many traveled in caravans to California. Perhaps some who are reading this paper heard first-hand accounts from their kinfolk who lived through those terrible days.

A recent, but brief, article in *Texas Highways* describes one day in 1935 when the sky over west Texas turned black. I copy that article here:

Black Sunday by Nola McKey

Although dust storms were common across the southern Great Plains in the 1930s, the spring storms between 1935 and 1938 proved especially violent. One of the most notorious “black blizzards” occurred on Palm Sunday, April 14, 1935. Originating in South Dakota and pushing southward, it affected portions of five states, including the Texas Panhandle. It hit with such intensity and suddenness that many people believed the end of the world had come. The phenomenon inspired Woody Guthrie, who lived in Pampa at the time, to compose the song “**The Great Dust Storm**,” which described the approaching cloud as “deathlike black” and “the worst dust storm that ever filled the sky.”

Pampa native Frank Stallings Jr., author of *Black Sunday: The Great Dust Storm of April 14, 1935* (Eakin Press, 2001), writes that the storm began rolling across the region in midafternoon, “instantaneously turning sunshine into midnight.” Thousands of Sunday drivers and picnickers, enjoying a clear, sunny day, were suddenly engulfed in darkness. The air became so thick with dust that “you couldn’t see your hand in front of your face.” Car lights could barely penetrate the “absolute blackness.” People had trouble finding their way from the front yard to the front door, and parents feared their children would suffocate.

In most parts of the Plains, the worst of the storm lasted only a few hours and, amazingly, caused no direct fatalities. But the frightening event left an indelible mark on the memories of those who experienced it. The storm left another legacy: While covering the phenomenon, Associated Press reporter Frank Geiger coined the phrase “dust bowl,” which would give the Thirties era its name.

“**Black Sunday**,” by Nola McKey, associate editor,

51 *Texas Highways* No. 4 at 9 (April 2004).

A picture taken of that black cloud accompanies the article, and can be viewed by clicking on (Ctrl+mouse click) the following link to the Texas Highways magazine: <http://www.texashighways.com/currentissue/speakingoftexas.php?id=197> . At the left side of that page, in the first Search box, type “black Sunday” and click “Go” to bring up the next screen. Once there, click on the article “Black Sunday” to view the photo.

Indeed, three other Dust Bowl photos appear in *LIFE, Our Century in Pictures* at 125 (1999).

Across the Eastern Sea in June 1940, France fell. That same month, the Division sustained a budget hit and (as mentioned again later) had to lay off over 28 percent of its judges. As authors Williamson Murray and Allan R. Millett report in their book on World War II, *A War To Be Won* at 82:

Savoring the humiliation, Hitler had German engineers drag out the rail car in which the delegates of the German republic had capitulated in November 1918. It was now the site of a second humbling, this time of the French.

A month later, in July 1940, the Battle of Britain began. *A War To Be Won* at 87.

From a 1941 film came the very popular song, *The Last Time I Saw Paris*, with *White Christmas* taking the top honor in 1942. (Two others popular in 1942 were *Don't Sit Under The Apple Tree* and *Praise The Lord and Pass the Ammunition*.) As discussed in more detail below in chapter 4 (“Staffing numbers”), in May 1942 the Division held a Trial Examiners Conference in Annapolis, Maryland. A month later, in June 1942, survivors of the Bataan Death March began transferring to their last P.O.W. camp — Cabanatuan — situated some 60 miles north of Manila. In his 2001 book describing the Death March and the January 1945 rescue, by U.S. Army Rangers, of the relatively few remaining survivors of Cabanatuan, author Hampton Sides describes Cabanatuan as a camp where the POWs were “exterminated ... through a kind of malign neglect.” *Ghost Soldiers* at 134. The year 1943 began with a January meeting between F.D.R. and Churchill at Casablanca. *A War To Be Won* at 218, 299. For 1943, *Casablanca* won the Oscar for best motion picture, and on the Hit Parade one of the top favorites was, fittingly, — *As Time Goes By*.

Americans of that generation were tough, and they were survivors. That first generation of NLRB judges had to be the same. Aside from per diem pay for many at the start of their careers (including future Chief Judges William Ringer and George Bokar), plus conduct approaching some decisional oversight (see the above-quoted legislative history of the Taft-Hartley Act), some were even called before a Congressional committee to testify about their conduct in

various cases. As to the latter, see the description by Professor James A. Gross in his second book (of three) on the Agency, *The Reshaping of the National Labor Relations Board* 183-186, 337-338 (1981). Professor Gross reports that seven Trial Examiners actually testified. *Reshaping* at 183 and 337, fn. 55. Judge Bokat was one of the seven. *Bokat* at 37, 43-44, 80. How lucky we are to have arrived for work much later, in the shade of the late afternoon, after others have borne the heat and hardships of the day. And, as in the Biblical parable, we have been paid a full share, notwithstanding our late arrival.

Indeed, return briefly to the 1945 Trial Examiner's Manual mentioned a few moments ago at the Acknowledgements page. Modern judges have rarely, if ever, been required to preside on Saturdays. Yet in the early years Division policy for ULP trials was (after a 10 a.m. start on the first day) hours of 9:30 a.m. to 5 p.m., lunch of 1-1/2 hours, and half a day on Saturdays of 9:30 a.m. to 1 p.m., generally with no night sessions except under "unusual circumstances" or by agreement of the parties, for a total of "at least 33 hours per week." *Trial Examiner's Manual* at 16 (1945). And if they were back in Washington, D.C., by Friday night, they were expected to attend a staff meeting beginning at 10 a.m. Saturday morning. *Id.* at 105.

Modern judges would be quick to point out that their daily hours generally are longer, averaging at least 7 working hours or more per day, for a weekly total of at least 35 hours (for full-week trials), and therefore no need to preside or meet on Saturdays. And for many years, judges frequently have presided until 6 p.m. and later in order to complete the testimony of a witness or to finish a trial. Of course, the point is that for judges in the early years, workweeks could well include either a half day of trial on Saturday or a staff meeting on Saturday morning. Moreover, although the 1945 manual does not mention this, in light of Saturday morning trials, and the fact that a lot of travel in the 1930s and 1940s was by train, the blunt reality is that for many years, as "old timers" have reported (such as former Chief Judge Pratt described in 1970), when trials and hearings were not close to Washington, D.C., there was no option of flying home late on Friday and flying back to the trial site late on Sunday.

As we see shortly, when the per diem system of payment is summarized, many judges received a portion for salary, plus so much for expenses, plus their "railroad fare" (emphasis added) to and from Washington. *Pratt* at 121. Certainly in the late 1930s travel by train was the norm, even though DC-3s had been introduced in June 1936. www.crsmithmuseum.com. (Click on American Airlines history, and then the tab for the 1930s.) Perhaps the judges, after arriving at some kind of train or air hub, then took a bus to reach some remote areas. The rental car industry had been in operation in Chicago for a good many years, and in 1932 Hertz opened the first rental car agency for Chicago's Midway airport. See the Hertz

website, www.hertz.com, and click on “About Hertz” and “Hertz History.” Of course, rental car availability at Chicago would not be much help for a case off the beaten trail in Oregon, Michigan, or Texas. And during the years of World War 2, travel by plane was not easy because of wartime restrictions and the lack of planes available for commercial flights. For example, the PBS history article, “Chasing The Sun,” reports, when summarizing American Airlines’ history, “With the onset of WWII, the nation’s commercial fleet was pressed into military service.” www.pbs.org/kcet/chasingthesun. That was not a total draft. For example, just under one half of American Airlines’ fleet of DC-3s was drafted for military service. www.crsmithmuseum.org. (Once there, click on American Airlines history, and then on the tab for the 1940s.)

The reality seems to be this: during the 1930s, most of the 1940s, and perhaps even until the airlines had switched to the jets, absent an adjournment with a resumption date set off in the future, it was not unusual for the judges to spend at least 1 weekend away from home during a trial. Indeed, this would have lasted for as long as Saturdays were official workdays, jets or no jets. For example, in *Wilson & Co.*, 7 NLRB 986, 987 (1938), Judge Patrick H. McNally presided for 8 days in a trial that opened in Albert Lea, Minnesota (about 100 miles south of Minneapolis) on July 19, 1937, and closed 8 days later on July 27. One of those 9 days, July 25, was not a trial date. Per a 1937 calendar, that July 25 was a Sunday. As Albert Lea would not have been a short train ride home for Saturday night, it is clear that Judge McNally had to spend that weekend at Albert Lea. Even if Albert Lea has some beautiful churches for Sunday worship, the point is that the judge, as all the other judges from time to time, could not choose to be home that weekend.

And as former Chief Judge Pratt describes in his March 1970 oral history interview, the time away from home could stretch for several weeks, even as much as 2 to 3 months if the judges had to cover a bunch of cases on a big sweep out west (before the San Francisco office opened). *Pratt* at 125-127. For another trial that surely meant a lot of weekends away from home, see *Ford Motor Co.*, 23 NLRB 342 (1940). Judge Tilford E. Dudley opened that trial in St. Louis on December 16, 1937, and closed it on April 9, 1938. The Board writes, at page 346, that the trial lasted for 90 days, with the Respondent itself calling over 500 witnesses. Clearly, aside from a probable break over Christmas through, perhaps, New Year’s Day, Judge Dudley spent most of his weekends in St. Louis.

Another judge from that time, A. Bruce Hunt (EOD 3-18-1939, after service in the old Review section), confirms, in his March 17, 1969 oral history interview, that travel during that time could mean being “away from home for seven or eight or nine weeks.” (*Hunt* at 1-2, 6) And Will Maslow, who left his trial attorney position in Region 2 (New York) to become a trial examiner in October 1941, recalls, in his March 20, 1970 oral history interview, that he

traveled about 20,000 miles during his first year as a judge, with all such miles being by train. (*Maslow* at 3, 13) Even so, probably a few judges preferred train travel for any of several reasons. As Peter Winkler (Acting Chief Counsel for Board Members, currently Member Ronald E. Meisburg) reports, his father, retired Judge Ralph Winkler (EOD April 3, 1950), preferred travel by train and generally took the train well into the 1950s even after most other judges were flying regularly. Judge Winkler enjoyed the opportunity of a train ride while reading the latest issue of the **Saturday Evening Post**. A Board family, both Winklers met their future brides at the Board. See 9 **All Aboard** No. 6 at 9, 11 (Feb. 2003).

Mention a moment ago of the San Francisco office (that opened about January 1951) calls up the subject of travel. Even in modern times, after the San Francisco office opened, the extent of travel for the judges has been something of a problem. Before the San Francisco office opened, the travel burden at times just became too great for some. Thus, the same Judge Maslow mentioned above describes how he left the Division, and the Agency, in about May 1943, taking another Government position, because his wife could no longer stand for him to be away from home at least half the time. *Maslow* at 3, 27.

There were other judges who also left the Division. Although as to them this paper has no citation to give showing that the travel burden just became too much, one must conclude that for some of those who left, the travel burden in those early years (before the San Francisco office opened) was surely a factor in their decision to leave. A prime example of a judge who quite likely fits this category is James C. Paradise. (As we see much later, it was Judge Paradise who was instrumental in assisting future Chief Judge George Bokart get hired as a trial examiner in October 1937.) There is some indication that Paradise, before joining the Division, was a lawyer in the New York City area. (Judge Maslow suggests as much in the course of reporting that they were friends. *Maslow* at 2.) Although Paradise appears to have been a solid asset of the Division, in early 1942 (as reflected in the bound volumes of the Board's published decisions), he left the Division to become a staff attorney at Region 2, New York.

The 1945 *Trial Examiner's Manual* is a wonderful piece of work. Written with a thorough and professional approach, the manual addresses in detail many of the practical questions and tasks that could face a judge in the course of a day, whether in trial or at work on a decision. (Judge Pratt tells us that Assistant Chief Trial Examiners Frank Bloom and William R. Ringer wrote what appears to have developed into the 1945 manual. *Pratt* at 168.) There is wisdom there, borne of practical experience, that judges today would profit from studying.

[This historical note. Before Judges Pratt, Bloom, or Ringer arrived at the Division, the Board, apparently in September 1935, issued its “Instructions to Trial Examiners,” a rather lengthy memorandum of, it appears, at least 22 pages. See the first of Professor James A. Gross’ three books covering the Agency, *The Making of the National Labor Relations Board* (1974) (*Making*), at 163-165, fns. 63, 66, and 73. And, as noted in this paper a few pages later, under the topic for “Officials and Other Early-Day Judges,” Secretary Wolf presided over half a dozen cases (including four unfair labor practice trials), from December 1935 (1 NLRB 316) to November 1936 (2 NLRB 385). In his oral history interview, former Secretary Wolf reports that he prepared a “Trial Examiners Manual” that he presented to the Board and which he assumes was amended thereafter from time to time based on further experience by the Division. *Wolf* at 33, 57-58, 74-75. Wolf may well have played a substantial role in drafting the September 1935 “Instructions to Trial Examiners.” It also appears that whatever manual he later developed as a result of his presiding half a dozen times presumably was used to some extent when Judges Bloom and Ringer began drafting what evolved into the 1945 *Trial Examiners Manual*.]

Although the 1945 *Trial Examiners Manual* is a graceful work, some of the restrictions present in those early years would not sit well today. Respecting a judge’s decision (“intermediate report”), the extensive internal review system, including the assistance of a critical, by design, analysis by an “associate attorney,” might send chills through most modern judges. Indeed, some of the older judges did not like it when the procedure came about back in 1940. (See 5 *NLRB Annual Report* 123; *Pratt* at 132-133, saying that the attorneys were from the Review section on assignments of about 6 months.) For example, consider the following:

In reading the record, the Associate Attorney should note carefully anything therein that might be error; such matters should immediately be called to the attention of the Chief Trial Examiner or Assistant Chief Trial Examiners. Likewise, any minor improprieties in the conduct of the hearing, extreme laxity of the Trial Examiner in the handling of witnesses, exhibits, or counsel for the parties should be noted for discussion with the Trial Examiner or the Chief Trial Examiner.

Trial Examiner’s Manual at 107(1945).

Granted, the goal of this was not to punish a judge, but to enable the Chief Judge to see whether he needed to reopen a hearing, and to the end that “clear, well-written Intermediate Reports be issued.” *Id.* at 107-108. Regardless of those practical goals, probably all judges today would take pride in declaring, “That’s my job.” The function of the associate attorneys is briefly

described in three annual reports of the Board: 5 *NLRB Annual Report* 123 (FY ending June 30, 1940); 6 *NLRB AR* 7 and 9; and 7 *NLRB AR* 12.

During some of those Wagner Act years, the judges appeared before the Board to present, defend, or explain their decisions. Thus, from the 1945 *Trial Examiner's Manual* at 110 (1945):

The Board has adopted the policy of conferring with the Trial Examiner, Associate Attorney and Review Attorney during the decision-making process. At this conference the Board considers the record and particularly the Intermediate Report, the exceptions filed thereto, briefs and suggestions and opinions of the Trial Examiner, Associate Attorney and Review Attorney, and various supervisors who may be familiar with the record. ... It is imperative that when appearing before the Board, the Associate Attorney, as well as the Trial Examiner, have all the facts necessary for an intelligent presentation.

As Chief Judge Bokat describes in his March 1969 oral history interview (full citation given later in the Sources section), some of the judges did not sit silently at such conferences. He reports that Judge Charles Persons was one who would argue vociferously with, particularly, Member Leiserson. *Bokat* at 48. Judge Bokat tells us that there would be Judge Persons, who was not a lawyer (and neither was Member Leiserson), debating legal issues with Leiserson in the presence of several who were lawyers. *Bokat* at 48.

A couple of examples of the tone of living as a judge then can be felt in the following brief instructions for judges when they were in travel status. Have to rush to catch the next train home? Better read page 34, repeated at page 84:

Unless definite arrangements have been made with the Chief Trial Examiner, The Trial Examiner will not leave the place of the hearing without further instructions.

Trial Examiner's Manual at 34, 84 (1945).

Change of hotels? Permission apparently needed. (Page 102.) While the goal of full information should there be need is perhaps understandable, one has to wonder whether the judges then actually called the hotel desk if they changed their choice of restaurants after departing for dinner. Thus, at page 102:

When [a trial examiner is] in the field, the division must be able to reach a Trial Examiner at any time. The Trial Examiner will therefore not leave his hotel or other lodging without leaving word as to his whereabouts and when he will return.

However, Judge Pratt gives us another perspective on the matter of being able to reach the judges. When those judges were out in remote areas for days, even weeks, at a time, it was a morale booster for them to get a call from Judge Pratt who brought them up to date on the relevant news events about the Board and labor related matters. *Pratt* 125-127.

Turn now to consider the progress that has been made. Although modern times bring current needs to be addressed, for the last many years NLRB judges have enjoyed a comfortable view from the bench. Regular paychecks, benefits, and pensions. Decisional independence. Lawyers preface their motions and arguments with, “Your Honor.” Even the U.S. Supreme Court has bestowed its blessing. As judges at any nearby courthouse, NLRB judges can render bench decisions and, in other cases, dispense with posttrial briefs at their discretion. As former Chief Judges George Pratt, William Ringer, and George Bokar might tell us, “Count your blessings, for it was not always so.”

Before leaving our reflections on those early years, how can we best remember them and the judges? At what lyrics would those early-day judges nod in approval if we lifted a glass to their memory? The opening lines from Gene Raskin’s 1968 song, *Those Were The Days*, might be fitting:

Once upon a time there was a tavern,
Where we used to raise a glass or two.
Remember how we laughed away the hours,
And dreamed of all the great things we would do.

(As Liam Clancy suggests, in his insert to the 1995 CD album of the Clancy Brothers and Robbie O’Connell, *Older But No Wiser*, the “tavern” is a reference to the back room of the White House Tavern in New York’s Greenwich Village where the Clancys and other singers and songwriters, such as Bob Dylan and Gene Raskin, “all hung out” during, apparently, the early 1960s. Of course, the album’s title quotes part of a passage from Raskin’s fourth verse.)

Was that time of the early judges “Just a passing breeze — Filled with memories — “ (1962, *Days Of Wine And Roses*)? Filled with memories, yes. From the very month that the Wagner Act became law, these lines from General MacArthur’s July 14, 1935 address (**Let Us Remember**) to the veterans of the 42nd “Rainbow” Infantry Division,” provide haunting imagery that is relevant here:

It was seventeen years ago — those days of old have vanished,
tone and tint; they have gone glimmering through the dreams of
things that were. Their memory is a land where flowers of
wondrous beauty and varied colors spring, watered by tears and

coaxed and caressed into fuller bloom by the smiles of yesterday. Refrains no longer rise and fall from that land of used-to-be. We listen vainly, but with thirsty ear, for the witching melodies of days that are gone. . . . The faint, far whisper of forgotten songs no longer floats through the air.

Douglas MacArthur, *A Soldier Speaks* at 67-68 (1965, Frederick A. Praeger).

Perhaps all of those images, and others, are appropriate here. Indeed, one vivid description comes from Judge Will Maslow who tells us of the camaraderie that developed among some of the judges in those early years. Thus, before they were able to move their families to Washington, several of the judges lived at the same rooming house on Connecticut Avenue. (Although Judge Maslow does not give us the names of those living in the same rooming house, the EOD dates show that Judges Frank A. Mouritsen and Samuel Edes also arrived at the Division that same October 1941, with William E. Spencer arriving in November. There possibly were others living at the rooming house who arrived either several months earlier or later.) Even after the families moved to Washington, the judges and their families visited and continued their close fellowship. *Maslow*, 12-13.

Those early judges, as did their generation, conquered the hardships they faced. Because they did, and because of their camaraderie and continued fellowship, they probably smiled at their adversities. Indeed, in a few pages we will see them smiling at us from a group photo of the attendees at the May 1942 Trial Examiners Conference. So let us lift a glass and remember them, and the witching melodies of days that are gone, with a toast of these lyrics by Alan and Marilyn Bergman from the 1973 song, *The Way We Were*:

So it's the laughter
we will remember
whenever we remember
the way we were;
the way we were.

Although those early-day judges might not feel any strains of nostalgia if they were looking back upon that time, is there a different feeling for us? Might we apply a different set of lyrics for ourselves as we think of them and those early years? If so, what would they be? Perhaps they would be these lines of the theme song, *The Hands of Time*, from the 1973 motion picture, *Brian's Song*:

If the hands of time
 were hands that I could hold,
 I'd keep them warm
 and in my hands
 they'd not turn cold.

Before closing these reflections, it is fitting that we consider two aspects of our modern years. Earlier, I mentioned the big layoff that hit the Agency, and the Division, in Fiscal 1940. That was the Division's first, and greatest, reduction in force (RIF) — 10 of 35 judges (nearly 29 percent!). Later, in Fiscal 1952, the Division sustained another layoff, although less severe. 17 *NLRB Annual Report* 1 fn. 1, 5. Fortunately, we in the modern era have not been faced with the economic lacerations resulting from a layoff. (One almost developed in the 1990s when most of the Government was not funded for a time, but eventually that crisis was solved.) As is summarized later in the section on staffing numbers, when the Agency's caseload increased during the 1950s, 1960s, 1970s, and into the 1980s, so did the number of the Division's staff of judges increase. When the caseload began to slide later in the 1980s and into the 1990s, the number of the Division's judges also decreased — but unlike in the early years, this time with no layoffs.

Accordingly, let us give management its due credit. In addition to normal attrition assisting in reducing the numbers to the necessary levels, our chief judges have exercised skill and good judgment, not only in hiring or not hiring, but also in finding opportunities in the late 1980s and early 1990s for some of us to assist the Division by being loaned out to other Federal agencies in need of our services. This loan program helped the Division survive without a layoff until normal attrition reduced the staffing number to the necessary level. We have been blessed.

In yet another important area the Division and the Agency were well ahead of the curve respecting the concept of flexiplace (telecommuting) arrangements. Long before the year 2000, the Division had a judge or two who alternated between working at their office in Washington, D.C., and at their home in a nearby State. However, and with this personal note, so far as I know, the Division launched into a new era in April 1982 when it permitted me to work exclusively from my home in Houston (later, Katy), Texas (traveling to the Atlanta office every 2 or 3 years or so for a staff meeting), until I retired nearly 20 years later in November 2001.

For this early foresight, tolerance, and willingness to experiment with a full flexiplace arrangement (indefinite at first, but essentially permanent), I am forever grateful to the Division, the Agency, to the Chief Judges (Mel Welles, who telephoned me in late March 1982 and said I was free to head for Texas, Dave Davidson, and Bob Giannasi), and Associate Chiefs Hutton Brandon and

Bill Cates, who had to manage the Atlanta office and work assignments with a certain amount of managerial inconvenience associated with a flexiplace arrangement. Later, the Division expanded the flexiplace program so that several judges began working from their homes, some in States away from the State in which their Division office is located. It is my understanding that today the Division's flexiplace policy is alive and well.

What many blessings all of us have had as judges of the Division. For these many blessings, I give thanks — not only for the early day judges who labored in the heat of the day, but also to the Division's modern day managers, the Chief Judges and the Associate Chief Judges, who successfully have guided the Division through some challenging times. The NLRB is a great place to have a career, especially one as a judge with the Division of Judges.

August 1, 2004
Katy, Texas

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INTRODUCTION

1. Purpose

The purpose in compiling a list of all NLRB judges, past to present, is to prepare a record, for easy access, of those who have served as regular-staff judges for the National Labor Relations Board. As of August 2004, the first publication of this effort to provide an all-time list of such judges, 66 years have elapsed since the Board, effective August 1, 1938 (as described in a moment), decided to assign only regular-staff judges to preside at unfair labor practice (ULP) trials. That decision was an important turning point in Board policy, for previously the Board had relied to a substantial extent on per diem judges. (Thus, as we see shortly, testimony that Chief Judge Pratt gave before Congress discloses that in November 1937 Judge Pratt had 24 regular-staff judges and some 40 to 50 per diem judges.) With each passing year it becomes increasingly difficult to preserve the names of those who have served as regular-staff judges. Accordingly, this preservation effort is now made. In the process, it is historically relevant that we highlight some interesting aspects of the early years.

The Board created the Trial Examiners Division (now the Judges Division) in September 1935. See 1 *NLRB Annual Report* 14 (FY ending 6-30-1936), and J. A. Gross, *The Making of the National Labor Relations Board* 163 (1974). Originally the judges' title was "Trial Examiner." Effective August 19, 1972, the title for the judges was changed by U.S. Civil Service regulation to "Administrative Law Judge." See, for example, *Marland One-Way Clutch Co.*, 200 NLRB 316, 316 fn. 1 (1972). (Congress made the change statutory in 1978.) In this paper the time-honored title of "Judge," which is descriptive of the function, is used. Indeed, the Supreme Court has ruled that the role of the modern Federal administrative law judge is "functionally comparable" to that of a judge. *Butz v. Economou*, 438 U.S. 478, 513 (1978).

2. Sources

Several sources supply the background information for this paper. The Board's first few annual reports provide important information concerning the judges, and significant information appears in the three books (the second source) by Prof. James A. Gross covering the Board — *The Making of the*

National Labor Relations Board (1974) (*Making*), including, among others, pages 163-165, 239-240; *The Reshaping of the National Labor Relations Board* (1981) (*Reshaping*), at pages 175, 177, 183-186, 205-206, 242, 246, 337-338, among others; and *Broken Promise* (1995), at numerous pages. In *Broken Promise*, Prof. Gross has written a major work about the Board and the political climate during the years 1947 to 1994. [A brief pause here to highlight an interesting coincidence. On the second page of the “Acknowledgements” at the opening of *Making* appears the name of “Richard Miserendino” as one of the graduate students assisting in research for Prof. Gross. It so happens that Graduate Research Assistant Miserendino is now the Judge Richard Miserendino named on the List of Judges.]

A third source consists of the decisions of the Board as reported in the Board's bound volumes. This is the source that provides most of the basis for approximating dates when judges entered on duty with the Division (EOD dates). That is, by ascertaining from the decisions when each judge first began presiding at NLRB trials and hearings, his EOD date can then be approximated, or “deemed.” [There were no women judges in the early years.] The process of approximating, or “deeming,” is mentioned further in the next paragraph.

A fourth source (and most detailed in terms of names and dates) is a few remaining copies of rosters of the judges — the earliest is dated January 10, 1957, and bears the names of 45 judges with their Division EOD dates — plus a list of separations (LOS) covering those judges leaving (whether by resignation, transfer, or death) from July 1, 1949, through November 15, 1961. The lists of judges usually carry the Entry on Duty (EOD) date with the Judges Division. Although the rosters serve as a major basis for the names of the judges and their Division EOD dates, most of the EOD dates for the early years have to be approximated, or “deemed.” This approximation process is explained in more detail much later, in the Preface To The ABC List.

The fifth source of information consists of the transcripts of oral history interviews given by 12 judges (some retired at the time) during the research for the three books on the NLRB by Prof. Gross. Interviewing and taping the oral histories given in 1969-1970 interviews (of the 12 judges), for Cornell University, School of Industrial and Labor Relations, was Graduate Research Assistant Judith H. Byne — named by Prof. James A. Gross in the Acknowledgements section of the first of his three books on the Agency, *The Making of the National Labor Relations Board* (1974). The 1988 interviews (for the third book) were conducted by Barbara Stoye Mulhallen, as noted (with a different spelling of her name) in the Acknowledgements section of Prof. Gross' third book, *Broken Promise*, at page xv.

In addition to the judges so interviewed, several others, either currently with or retired from the Agency, gave their oral history interviews. One of

these persons was the Board's first Secretary, Benedict Wolf, who was interviewed on two dates during 1969: May 19 and December 29. Wolf indicates that one of his many duties included functioning as the Chief Trial Examiner. *Wolf* at 58, 60, 77.

The names of the judges so interviewed (not all 12 are cited in the paper) are as follows, with the interview dates (Judge Somers was interviewed twice) set forth after their names:

	<u>Name</u>	<u>Interview Date</u>	<u>Pages</u>	<u>Index Pages</u>
1.	George Bokat	3-17-1969	81	1
2.	George J. Bott	3-20-1969	72	1
3.	Fannie M. Boyls	3-20-1969	24	1
4.	Bernard Cushman	3-19-1969	45	1
5.	William Feldesman	7-28-1988	50	None
6.	A. Bruce Hunt	3-17-1969	31	1
7.	Will Maslow	3-20-1970	35	1
8.	George O. Pratt	3-18-1970	169	3
9.	A. Norman Somers	3-20-1969	56	2
	and	8-1-1988	23	None
10.	Owsley Vose	3-14-1969	55	1
11.	Melvin J. Welles	7-27-1988	72	None
12.	Ralph Winkler	8-4-1988	19	None

(The transcripts of the interviews with Judges Boyls, Feldesman, and Somers are "restricted" by the copyright holder: Kheel Center, Cornell University. To the extent these transcripts are cited in this paper, such limited citations or brief quotes are made under the "fair use" doctrine.)

Citations in this paper to these transcripts are given as, for example, *Pratt* at 12. Appreciation is expressed at this point for the courtesy and extensive helpfulness given by the Kheel Center, Cornell University (copyright owner of the tapes and transcripts), for providing copies, for this research paper, at a reasonable copying expense. Special thanks in all these regards belong to Research Archivist Dr. Patrizia Sione, Kheel Center for Labor-Management Documentation & Archives, Cornell University, for all her personal patience, helpfulness, and courtesy. Appreciation is also expressed to the Kheel Center in granting permission for a copy of Judge Pratt's transcript to be donated to the NLRB's Division of Judges.

While some of these interviews are of significance for this paper, the transcript of Chief Judge Pratt's oral history interview is of singular historical

significance to the Division. First, as already noted, Judge Pratt was the first person to fill (in November 1937) the newly created Office of the Chief Trial Examiner (as the judges were called in those years). Second, while the interviews of some of the judges covered some of the weightier labor law issues of the day, Judge Pratt's interview, as we already have seen above, covers many of the routine problems facing the judges, such as, for example, rather frequent travel time away from home for extended periods.

A sixth source of information for such matters as appointments to the Division (an approximate EOD date), retirement dates, and dates of death, is the Agency's press releases (announcing appointments of newer judges and, frequently, retirements of older judges), bulletins (for such as death notices), and the Agency's internal newsletter, *All Aboard*, for its frequent coverage of all three events.

Finally, the memories of a few "old timers" (some still working, and some retired), supplemented by their research, have been very helpful.

Aside from various rosters (reconstructed and actual), the LOS, and the list of the Chief Judges, three main lists of judges are attached. The first list combines all judges, with their EOD dates, into one alphabetical (ABC) list. (References to a generic "List of Judges" generally contemplate the ABC list.) The second main list, the EOD list (the next to last list in this paper), names the judges under their office location in their sequence of EOD date. Effort has been made to list judges, who moved late in their careers and perhaps began working out of their homes, under the office with which they are most associated. The final list is the Unified EOD List (the EOD List with all offices merged into a master EOD list).

Respecting home offices, in his initial years with the Division, Judge Henry S. Sahm was one of the staff judges at the DC office. Later, he transferred to the San Francisco office. In the ABC and EOD lists, Judge Sahm is listed as part of the SF office. And Judge William Pannier, a SF judge who concluded his time at SF holding the position of Associate Chief Judge there, moved to Illinois and worked from his home there for the last 3 years or so before he retired. While in Illinois, Judge Pannier was attached to the DC office. For the ABC and EOD lists, Judge Pannier is shown as a judge with the SF office. Similarly, Judge Leonard Cohen, who began his career with the Division at the SF office, spent most of his Division years with the Atlanta office, and the latter office is shown for him in the ABC and EOD lists.

For the last many years, with the earliest available roster of judges being the one dated January 10, 1957, Judge William R. Ringer (who became the Chief Judge on 1-15-1947 per 72 NLRB at iii, fn. 4) was shown as the judge with the earliest EOD date, that being 10-1-1937. With the EOD List (the last list in this paper), we now have, as close as is reasonably possible, the names of

the regular staff judges who preceded him. As with nearly all the judges in those first few years, Judge Ringer began presiding (on May 24, 1937) on a per diem basis. He was converted to regular-staff, or Division Judge, on October 1 of that year.

3. Per diem System Initially Significant

As the decisions in the Board's first 10 or so bound volumes reflect, the names of a good many judges ("Trial Examiner" on those pages) appear as presiding at trials ("hearings") during 1936 and 1937, several months before the EOD date of Judge Ringer. There is a difference. As we learn from the Board's 3d Annual Report, for the fiscal year ending June 30, 1938, at 244:

Until recently the Board had made substantial use of the per diem trial examiner in addition to those on the regular staff. The per diem system was used for two basic reasons:

- (1) As a means of trying out applicants for positions, and
- (2) In order to carry the very heavy load of cases.

However, it was decided as of August 1, 1938, [that] the Board would no longer employ per diem trial examiners. From among those persons who had been per diem trial examiners a number of individuals were appointed to positions on its regular staff. Some few persons not applicants for regular positions are employed occasionally on a per diem basis when no regular examiners are available.

Chief Judge Pratt made the recommendation that the Board shift to all regular-staff judges because (1) using per diem judges was an administrative headache for various reasons, and (2) Judge Pratt felt that the per diem system resulted in less productivity, particularly as to writing the Intermediate Reports, than would a system of regular-staff judges. *Pratt* at 133-134. Similar to the situation of Judge Ringer, when future Chief Trial Examiner George Bokar first began presiding at hearings in October 1937 he, as virtually all the others at the time, worked at the per diem rate of \$25. See Prof. Gross, *Making*, at 164, at note 70, and 240-241; *Bokar* at 7 (although Judge Bokar does not specify the daily rate). In fact, Judge Pratt recounts, to the penny, that the salary portion of the per diem rate initially was only \$11.73, later increased to \$14.35, and the rest was for expenses, plus "**railroad fare from Washington to the point of hearing and return to Washington.**" (Emphasis added.) *Pratt* at 121, 122, 144.]

Observe from the lists below that, as shown on the Division's staff rosters, Judge Bokar's EOD date is February 1, 1938. This clearly is the date that he became one of the Division's regular-staff judges, and Judge Bokar himself confirms this in his March 1969 oral history interview. *Bokar* at 9.

Respecting the number of the Division's (regular-staff) judges, Prof. Gross reports, in *Making* at 239 footnote 29 (citing evidence presented at the Smith Committee hearings in 1939-1940), that the number increased from 11 on June 30, 1937 (close of the Board's second fiscal year) to 24 during the fiscal year ending June 30, 1938 (the fiscal year following the Supreme Court's April 1937 decision upholding the constitutionality of the Act). By about late 1939 to January 1940, Prof. Gross tells us, the Division's staff of judges had increased to 39. See *Reshaping* at 183-184 and 316 note 109 (again citing the Smith Committee Hearings). More information about the number of judges appears below in the part of this Introduction captioned as section "11. Staffing numbers."

By its policy change effective August 1, 1938, the Board perhaps anticipated the changes that Congress and President Franklin D. Roosevelt would institute in the very early 1940s. Thus, as an article at the Office of Personnel Management's website informs (www.opm.gov; click on About the Agency; then, under Mission and History, click on Biography of An Ideal), at pages 5-6, on November 26, 1940, President Roosevelt signed the Ramspeck Act. And:

The Ramspeck Act paved the way for an unprecedented extension of the merit system. It also provided for extension of the Classification Act to the field service of the Government, and established efficiency-rating boards of review.

The Ramspeck Act authorized the President to include within the competitive service any offices or positions in the executive branch, with the exception of (1) those in the Tennessee Valley Authority and the Work Projects Administration, (2) Presidential appointees confirmed by the Senate, and (3) assistant U.S. district attorneys.

In effect, the act authorized the extension of the competitive service to more than 182,000 permanent positions—almost all the non-policy-determining positions in the executive civil service. It thus authorized the President to sweep away virtually all the exceptions which had accumulated since the passage of the Civil Service Act in 1883, and even permitted the extension of the merit system to unskilled laborers, who had been excepted by the Civil Service Act itself.

The Executive orders issued by President Roosevelt under the authority of the Ramspeck Act brought merit system jurisdiction to an all-time high, covering not only routine positions but also most high-level professional and administrative positions. By means of Executive Order 8743 of April 23, 1941, and other

orders, the President extended the competitive service to all previously excepted positions other than temporary positions, those excepted by the Civil Service Commission itself under Schedules A and B of the civil service rules, and those expressly excepted by the Ramspeck Act.

This interesting side note. In his March 1970 oral history interview, former Chief Judge George Pratt reports that in 1940 the judges, now secure in their positions, formed their Association of Trial Examiners and came to him seeking recognition and collective bargaining. After some discussions, they “arrived at some sort of an agreement,” but then “everybody went under Civil Service” and “that took care of the union.” *Pratt* at 144-146.

4. The Chief Judges

a. Introduction

For its first 2 years of operation, the Board did not have a Chief Trial Examiner as a separate position filled by a person appointed to the office of Chief Judge. Instead, during those first 2 fiscal years (ending June 30, 1937), and for some 4 months into the third fiscal year (to November 1937), the Board's “Secretary” served as the Chief Trial Examiner. Most of this is described in the Board's first three annual reports. See 1st Annual Report at 15; 2d Annual Report at 8 fn. 10; and 3d Annual Report (for the fiscal year ending June 30, 1938) at 243. For further confirmation, see *Making* at 163 and footnote 65. For example, from 1 *NLRB AR* 15 (emphasis added):

The Trial Examiners Division, under the supervision of the secretary, as **acting Chief Trial Examiner**, holds hearings on behalf of the Board.

During those first 2 plus years, the Board's Secretary was Benedict Wolf. (“Executive Secretary” became the position title when the Secretary's position was decentralized after a new Board Chairman — Harry A. Millis — was appointed on November 15, 1940, by President Roosevelt. See *Reshaping* at 226, 229; 6 *NLRB AR*, for the fiscal year ending June 30, 1941, at 7.) Whether Secretary Wolf was “acting” chief or full chief is immaterial here. A picture of Secretary Wolf appears in the Agency's *The First Sixty Years* at 8 (1995) as follows:



Moreover, whether Wolf was filling an “office” of Chief Trial Examiner, as seems unlikely (for example, the page listing the Agency officials in the Board's first two annual reports lists Wolf as the “Secretary,” not “Secretary and Chief Trial Examiner”), or simply performing the function of chief trial examiner (the explanation that better fits the actual listings by the Board), is also immaterial here. For this paper, the relevant departure point begins in November 1937, some months after the Supreme Court declared the Act constitutional, the trial docket zoomed, the Board saw that it needed a full-time chief judge, and it therefore established that office as a position separate from that of the Secretary and made it a part of the Board's Executive Staff.

Under those circumstances, the Board issued its Press Release R-413 (*Press Release*), dated November 8, 1937, announcing the appointment of George O. Pratt as Chief Trial Examiner, with the first two paragraphs reading:

The National Labor Relations Board has announced the appointment of George O. Pratt as its Chief Trial Examiner. Since the creation of the Board Mr. Pratt has served as its Regional Director at Kansas City. He will assume his new duties at Washington on November 15. His successor as Regional Director at Kansas City has not as yet been appointed.

The office of Chief Trial Examiner has heretofore been held by Mr. Benedict Wolf in conjunction with Mr. Wolf's position as Secretary of the Board. Mr. Wolf recently resigned to practice law in New York City. His duties as Secretary will be assumed by Nathan Witt.

Accordingly, Judge Pratt's EOD date is here recognized as established (not “deemed”) to be November 15, 1937. Moreover, in the table of the chief judges set forth later below in subsection C, Secretary Wolf is not listed as a Chief Trial Examiner for the simple reason that the position did not exist as its own office, separate and independent of any other position, until after he departed the Agency. Even so, in the preamble to the list, Secretary Wolf's additional duty as Chief Judge (whether “acting” or otherwise) is recognized, as is his due.

Beginning with the 3d Annual Report (for the fiscal year ending June 30, 1938), the Chief Trial Examiner is listed by position and name (George O. Pratt in that 3d Annual Report), along with the Board members, Secretary Nathan Witt, and other top officials of the Agency. (Before its 15th Annual Report, for the fiscal year ending June 30, 1950, the Board only sporadically inserted footnotes to show the dates of appointments or departures of Agency officials.) And from the Board's 3d Annual Report (for the fiscal year ending June 30, 1938) at 243:

The Trial Examiners' Division, under the direct supervision of the Chief Trial Examiner, holds hearings on behalf of the Board. During a portion of the period covered by this report the Secretary of the Board also was the Chief Trial Examiner, but since the appointment of a Chief Trial Examiner these functions have been separated.

At page 242 of his second book, *Reshaping*, Prof. Gross states that Frank Bloom succeeded George Pratt as Chief Trial Examiner. That is confirmed by the listing of officials in the Board's 6th Annual Report, for the fiscal year ending June 30, 1941, that shows Judge Pratt as the Chief Trial Examiner, as compared with the 7th Annual Report, for the fiscal year ending June 30, 1942, that shows Judge Bloom to be the Chief Trial Examiner. However, we have a discrepancy between the Board's annual reports and the Board's bound volumes. In the Board's bound volumes for the relevant time frame (Volumes 41, 42, and 43), the page listing Agency officials shows George O. Pratt as the Chief Trial Examiner in Volume 41 (May 16–June 30, 1942), and also in Volume 42, the start of the new fiscal year (July 1–August 11, 1942). Then, in Volume 43 (August 12–September 15, 1942), Frank Bloom is listed as the “Acting Chief Trial Examiner.” These dates accord with Chief Judge Robert Giannasi's own analysis of the timeframes for service by the former Chiefs. Finally, Judge Giannasi's analysis is confirmed by Judge Pratt himself in his March 1970 oral history interview, for he reports there that it was in July 1942 (apparently late in the month) that he left the Agency. *Pratt* at 146, 155.

Judge Ringer succeeded Judge Bloom as Chief Trial Examiner, as noted above, in January 1947 (per Division files), in the fiscal year ending June 30, 1947. Judge Ringer served in that capacity until, as we learn from the Board's 26th Annual Report for the fiscal year ending June 30, 1961, he retired. (Chief Judge Giannasi's analysis of the records shows that Judge Ringer retired at the end of November 1961.) As is reflected by the Board's 26th Annual Report at iii fn. 1, for the fiscal year ending June 30, 1961, Judge Ringer was succeeded as Chief Trial Examiner by George Bokar on December 1, 1961. Judge Bokar served as Chief through June 1972, and that brings us past the early years and into the time of more recent records and memories. (Prof. Gross reports on

some of Judge Bokát's memories in a 1969 "oral history interview" with him. See Prof. Gross' 1974 *Making* at 240-241 and footnote 35.)

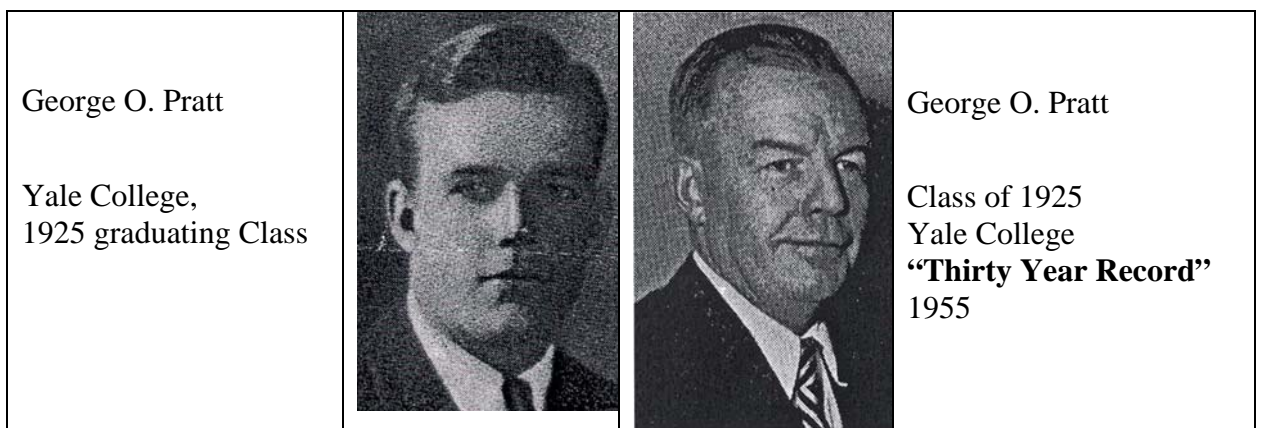
In a moment, all the chief judges are listed. The list essentially is that graciously prepared and submitted by Chief Judge Giannasi.

b. Chief Judge George O. Pratt

Because George O. Pratt was the first person appointed, in November 1937, to the newly created office of Chief Trial Examiner, this paper devotes some space to a brief summary of his rather short tenure with the Agency.

Born at Kansas City, Missouri on October 5, 1903 (*Press Release* R-413, Nov. 8, 1937), Pratt graduated from Yale College in 1925 (*Press Release*) and from Yale Law School in 1927. *Pratt* at 12. After some years of law practice in Kansas City, on October 2, 1934, Pratt was appointed as the Secretary of the Kansas City office of the "Old" National Labor Relations Board. Although Pratt refers to it as the "National Labor Board," *Pratt* at 43-46, the NLB was the predecessor organization abolished by the executive order that created, per joint Congressional Public Resolution Number 44, the "Old" or "First" National Labor Relations Board effective July 9, 1934. 1 *NLRB Annual Report* 6; *Making* at 72 and fn. 143; *The First Sixty Years, The Story of the National Labor Relations Board, 1935-1995* at 6-8 (ABA, 1995).

The following photo on the left is of George O. Pratt for his class picture for the 1925 graduating class of Yale College. (Yale Law School has a gap of about 20 years, including the 1920s, when no class pictures were made of the law students.) As of this picture (assuming that it was taken in late 1920 or early 1921), George Pratt would have been 21 years of age. The photo on the right is from "**The Thirty Year Record**," a 1955 publication by the Class of 1925, Yale College, with the assistance of the Class Officers Bureau, and edited by John Durant:



We have confirmation from Judge Pratt's 1970 oral history interview that he assumed the Chief Judge position in November 1937. *Pratt* at 117. He again confirms this during his Congressional testimony in 1940, by then Chief Trial Examiner Pratt, as quoted by Prof. Gross in *Reshaping* at 11 (emphasis added):

When I came to Washington, **in the middle of November 1937**, and assumed the position of Chief Trial Examiner, I had at that time ... 24 regular examiners and possibly 40 to 50 men on a per diem basis ... and my job was to supervise as best I could the activities of the regular and per diem examiners.

In his March 1969 oral history interview, Judge Bokart distinctly recalls that Judge Pratt arrived on November 15 to be the Chief Judge because that was Judge Bokart's birthday. *Bokart* at 1, 8.

As noted earlier, George Pratt was the original Regional Director for NLRB Region 17, Kansas City. 1 *NLRB Annual Report* at 17; *Press Release*. (And Prof. Gross reports that Pratt had been the Regional Director for Region 17 at Kansas City. See *Making* at 159 footnote 42.) In a moment we shall see how it came about that Regional Director Pratt presided as a trial examiner in several cases. As Prof. Gross puts it in describing a later event during Pratt's tenure as Chief Judge, Pratt was a person "that the Board had confidence in." *Reshaping* at 127.

An interesting side note. As an undergraduate majoring in Latin, Pratt wrote "quite a few" poems in Latin. *Pratt* at 12. Years later, when the House Special Committee to Investigate the NLRB (the Smith Committee; *Reshaping* at 106, 151) was doing its work, committee investigators hauled away all of Judge Pratt's files, including a personal file containing his Latin poetry. (See generally *Reshaping* 158-159.) Judge Pratt had been saving the poems to show to his grandchildren. *Pratt* at 146-147. When Edmund Toland, the Committee's General Counsel (*Reshaping* at 153), interrogated Judge Pratt during the hearings, he established through Judge Pratt that a document consisting of one of Judge Pratt's poems was not written in English. Toland offered the document on the basis that it was written in a "foreign language," had been found in the files of the Chief Trial Examiner, and that Judge Pratt admitted being the author. *Pratt* at 147-148. In its final report, and in an apparent reference to the Latin poetry, the Committee wrote that Judge Pratt had been maintaining "unauthorized materials on government property." *Pratt* at 148.

The first NLRB was left with no authority when the Supreme Court declared the National Industrial Recovery Act (NIRA) unconstitutional on May 27, 1935. 1 *NLRB AR* 6-7; *Pratt* 74. After the Wagner Act was enacted into law on July 5, 1935, Pratt and the other regional Secretaries of the "Old" NLRB

became the Regional Directors of the “New” NLRB. 1 *NLRB AR* at 16; *Making* at 159; *Pratt* at 78; *Press Release*. Thus, Pratt is shown in the Board's First Annual Report as the Regional Director for NLRB Region 17, Kansas City. 1 *NLRB AR* at 19.

In early November 1935, Regional Director Pratt issued his first complaint under the Act. Some 2 weeks later the local U.S. District Judge, Merrill E. [not “C”] Otis, issued what apparently was a temporary restraining order, and then later enjoined the NLRB and Regional Director Pratt from operating under the Act in the Western District of Missouri. *Stout (Majestic Flour Mills) v. Pratt*, 12 F.Supp. 864 (W.D. Mo. 12-21-1935). The injunction survived on appeal, although the constitutional issue was not reached. *Pratt v. Stout (Majestic Flour Mills)*, 85 F.2d 172 (8th Cir. 8-5-1936); 1 *NLRB AR* 47, 49-50, 57-58; 2 *NLRB AR* 31, 38-39. Thus, from about mid-November 1935 until the Supreme Court declared the Act constitutional on April 12, 1937, “nothing was done” at Region 17. *Pratt* 85-91; *Making* 208-210. This was the first injunction against the Board in what became an important legal battleground. 1 *NLRB AR* 46-50. [The timing suggested in Judge Pratt’s oral history interview is about a month earlier than that mentioned at 1 *NLRB AR* at 47 and in the reported decisions.]

While the question of the Act’s constitutionality worked its way to the Supreme Court, Regional Director Pratt was assigned to work in several capacities from Washington, D.C. to Honolulu. December 1935 saw him preside for the first time as a trial examiner, and thereafter he conducted elections, investigated charges, prosecuted unfair labor practice complaints, and served several other times as a trial examiner. The summer of 1937 was a busy one at Region 17, and he even acquired some help (previous to this, the staff consisted of Pratt and his secretary) in the person of a Regional Attorney, I. S. Dorfman. *Pratt* 93-109. That November 1937 Pratt received a call that led to his accepting, at the age of 34 (*Pratt* 143-145), the newly created position (as separate and independent of the Secretary’s office) of Chief Trial Examiner — an expensive proposition because, it appears, in those days the Government did not reimburse for moving expenses. *Pratt* 116-117; *Press Release No. R-413*.

Pratt served as the Chief Judge until he received another call, in July 1942, to help with the war effort. A week later he was transferred to work for the OSS — Office of Strategic Services. *Pratt* 146, 155. On leaving the OSS in late December 1945, Pratt did not resume his NLRB career. Pratt explains that he decided against returning to the Agency because he had been away for over 3 years, and because it appeared to him the legal environment for the Agency was moving toward conflict resolutions on the adversarial model rather than on the basis of investigation, conciliation, and encouragement of labor unions. *Pratt* at 156. Even in trials, the original concept, as Judge Pratt describes, was investigatory, and the trial examiner was free to speak to counsel

for either side, ex parte, to suggest that more facts be developed on this or that issue, and to bring in other witnesses if necessary. *Pratt* at 137-138, 140.

Instead of returning to the Board, Judge Pratt worked a few years with the Department of Interior, and in the early 1950s switched to a private engineering firm where he worked until semiretirement in about the late 1960s. In both positions, Pratt traveled extensively, including trips to many countries around the world. *Pratt* at 157-160. After a heart attack, apparently in the late 1960s, Pratt worked very little, his last stint for the engineering firm being in the spring of 1969, about a year before his oral history interview. *Pratt* 156-161.

But for Judge Pratt's oral history interview of March 1970, an impression could be left by the Board's Second Annual Report that Pratt had left Region 17 during the fiscal year ending June 30, 1937, for it there tells us that the Regional Director for Region 17 was now Elwyn J. Eagan. 2 *NLRB AR* 11. Eagan was the Regional Attorney at Region 19, Seattle. 1 *NLRB AR* 19. Indeed, Eagan was the Board's trial attorney before Trial Examiner Pratt in Pratt's Honolulu case during the March-April 1937 trial there. *Pratt* 101-104. Apparently, when Pratt became the Chief Judge, and before the January 4, 1938 transmittal of the Board's Second Annual Report, it was decided that Eagan would succeed Pratt as the Regional Director at Kansas City. (Recall from the November 8, 1937 press release announcing Pratt's appointment to be Chief Trial Examiner, it is stated that no successor had as yet been appointed for the position of Regional Director of NLRB Region 17.) However, as we see for the following year, Eagan was promoted to be the Regional Director at Region 19, apparently never leaving Seattle. 3 *NLRB AR* 14. Assuming Regional Director Charles Hope of Seattle did not suffer an untimely passing, we reasonably can conclude that Eagan learned Regional Director Hope would be leaving the Regional Director's position in Seattle, that Eagan could be the Regional Director there rather than in Kansas City, and that Eagan decided to remain in Seattle.

These closing notes respecting Chief Judge Pratt. As of Judge Pratt's July 1942 departure from the Agency, the Smith Committee had not returned Judge Pratt's files to him. Thus, Judge Pratt was never able to show to his grandchildren the poems that he had composed in Latin so many years earlier. *Pratt* at 146. As his son, Sherwood Pratt of Brookline, Massachusetts, reports, Judge Pratt died in October 1979, and is buried in the family cemetery, Mosswood, at Salem, Connecticut.

c. List of the Chief Judges

One or more of the Chief Judges either served, or may have served, in an acting capacity for a short time before the official term of their appointment began. The beginning month shown here is when they started even if that

includes any short time in an acting capacity. As discussed a few pages earlier, for the first 2 years and some 4 months of the Board's operation, the Board's first Secretary, Benedict Wolf, also performed the function of Chief Trial Examiner. Secretary Wolf is not included in the listing which follows because, as mentioned earlier, only those appointed to the separate office of the Chief Trial Examiner are listed here, with Judge George Pratt being the first so appointed. Judge Schneider is included because he was officially designated, in an acting capacity, to fill the established position on July 1, 1972. See 198 NLRB at iii, fn. 2.

Based on the foregoing, we see that the Agency has had 11 persons who have served, or still serve, as the Chief Judge (Chief Trial Examiner; Chief Administrative Law Judge), in the capacity of full (or Acting) appointment to the separate position of that office. Except for Chief Judge Pratt (who was the Regional Director of NLRB Region 17, Kansas City, at the time of his appointment, although he had served several times as a trial examiner), the other 10 of those 11 have been appointed from the ranks of the Board's trial judges.

	<u>Name</u>	<u>Term of Service</u>	<u>Note</u>
1.	George O. Pratt	11-15-1937 to 8/1942	
2.	Frank Bloom	8/1942 through 12/1946	
3.	William R. Ringer	1/1947 through 11/1961	
4.	George Bokat	12-1-1961 to 6-30-1972	
5.	Charles W. Schneider	7-1-1972 to 12-31-1972	Acting Chief
6.	Eugene E. Goslee	1/1973 through 10/1975	
7.	Thomas N. Kessel	11/1975 through 12/1979	
8.	Arthur Leff	1/1980 through 12/1980	
9.	Melvin J. Welles	1/1981 through 10/1993	
10.	David S. Davidson	11/1993 through 6/1996	
11.	Robert A. Giannasi	7/1996 to Present	

5. Officials and Other Early-Day Judges

In footnote 1 at page 22 of the Board's 1st Annual Report, for the fiscal year ending June 30, 1936, we are informed that, "In many cases the Board has designated one of its own members as trial examiner." An early example of that is reflected in the case (Case C-5) of *Clinton Cotton Mills*, 1 NLRB 97, 98 (1935), where it states that Board Member John M. Carmody was designated by the Board to be the trial examiner in the case. Indeed, for the first few months or so, the presiding "trial examiner" usually was someone other than a regular-staff judge. Perhaps symbolically, the Board itself sat as, in effect, the trial examiner in the first trial under the Act. See *Making* text at 171 and footnote 96, and *Pennsylvania Greyhound Lines*, 1 NLRB 1 (1935) (Case C-

1). Although the Board's decision does not state when the trial began, Prof. Gross reports, *Making* at 171, that the trial opened on October 22, 1935. Barely 6 weeks later, on December 7, 1935, the Board issued its decision in the case. In its First Annual Report, the Board reports that, for the fiscal year ending June 30, 1936, “the Board [itself] conducted 7 hearings in complaint cases.” 1 *NLRB AR* 38.


The range of “celebrity” judges extended from the Board itself, as at 1 *NLRB* 1, and at 1 *NLRB* 503 (*Jones & Laughlin Steel Corp.*), at least twice to each of the original members of the Board, to the Board's Secretary (Benedict Wolf, at four complaint cases and two representation cases), to several Regional Directors, and in a combined (not consolidated) trial of an “R” and a “C” case, to an academic, Charles E. Clark, dean of the Yale Law School, at 1 *NLRB* 686 and 1 *NLRB* 788.

A few names of early-day judges appear in *Making*, at pages 240-241 (Judge George Bokat) by Prof. Gross, and in his 1981 *Reshaping*. Named in the latter, at 174-175, 177, 184-186, 205, 242, are Chief Judge George Pratt and Judges Frank Bloom, Mapes Davidson, Tilford Dudley, Harlow Hurley, Martin Raphael, William R. Ringer, William Seagle, Charles Whittemore, and Charles Wood. (At p. 186(2) (second item) of *Reshaping*, see the 1938 photo of Judge Ringer emerging from a lead and zinc mine in Picher, Oklahoma following what may well be the first example in Board history of a **bench view** during a ULP trial.) For the reason expressed below, all these judges (except Harlow Hurley) are included in the ABC list that appears later. It seems that Prof. Gross names these judges, at least as to most of them, for the time period of late 1939 to early 1940. Harlow Hurley appears to have served on a per diem basis only. He is mentioned in *Reshaping* at 174-175 as a “green” trial examiner in December 1937, and he had no reported unfair labor practice trials after August 1938 (and only two representation hearings thereafter, in October 1938).

[This brief note in defense of the “green” per diem judges. Unlike future Chief Judges Ringer and Bokat, who came to the Board with substantial experience as trial lawyers, it is possible that Judge Hurley, and others like him in the 1930s, did not have such experience. In the 1940s and into the 1950s, a number of the Agency’s Trial Examiners were drawn from the old Review Section that was divided, after the Taft Hartley Act, into the legal staffs for the Board members. They, and those who transferred from the Agency’s appellate section, were very experienced with Board law. The Civil Service eligibility requirement of at least 7 years of litigation experience means that modern judges have come to the Division with a solid background of trial work. And for the last several years, as Chief Judge Giannasi advises, new judges arriving at the Division have come from other agencies, such as the Social Security Administration, where they already were administrative law judges. Some of these new judges had background experience with NLRB trials and hearings, or

other related labor law experience, and some have not. But all have had extensive litigation experience. Surely, therefore, there is no room for any of us modern day judges to feel any smugness that we were not “green” when we became judges with the Division. To make any comparison, we would have to ask what our situation would have been had we been lawyers in the 1930s — generally not a good time attempting to gain experience as a trial lawyer.]

As stated earlier in the Photo Credits, the photo of Judge Ringer emerging from his **bench view** of the lead and zinc mine is an NLRB photo that is reproduced in the commemorative publications on the NLRB at the 50-year mark (*NLRB, The First 50 Years, The Story of the National Labor Relations Board 1935-1985*), at page 23, and at page 13 of *The First Sixty Years, The Story of the National Labor Relations Board, 1935-1995* (ABA, 1995). The latter 60-page (an appropriate number) publication is reproduced on the Board's website, and the photo can be viewed there over the internet at www.nlrb.gov. (At the website's homepage, on the menu on the left, under NLRB Documents, click Publications; the booklet is the second item; click on the PDF format (the HTML format, as note at its conclusion states, does not include graphics); under Chapter 2, click on pages 9 to 14; scroll to page 13 of booklet, or page 5 of PDF; photo is second of two on the page.) A copy of the photo also is reproduced here:

<p>Judge Ringer may have taken this bench view in the case of <i>Eagle-Picher Mining & Smelting Co.</i>, 16 NLRB 727 (1939) (trial at Joplin, Missouri opened December 6, 1937 and closed April 29, 1938. Id. at 729).</p>		<p>This bench view by Judge Ringer may well be the first in Board history.</p>
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In *Reshaping* at 345, note 27, Prof. Gross names some additional judges as of March 1940. Because the time period is early 1940, it is clear that these individuals are regular-staff judges. (With one exception, Sidney Sugerman, this is confirmed by the fact that the Board's bound volumes reflect that the

judges should either have deemed EOD dates earlier than March 1940, or they are named on the January 1957 roster.) If the names of these judges so named by Prof. Gross were combined into a single list, the total number would be 22 (not counting Chief Judge Pratt). However, because the bound volumes reflect that judges Harlow Hurley (who, as noted earlier, appears to have been a per diem judge) and Charles Wood ceased presiding before 1940, and as Prof. Gross, in *Reshaping* at 184 (similar to 316, footnote 109) counts 39 regular-staff judges as of January 1940, it appears that as of early 1940 the 20 regular-staff judges (plus Chief Judge Pratt) named by Prof. Gross are:



James Batten	Earl Bellman
Frank Bloom	George Bokat
Mapes Davidson	Tilford Dudley
A. Bruce Hunt	[Harlow Hurley gone]
Henry Kent	Charles Persons
Martin Raphael	M. Reimer
William R. Ringer	Henry Schmidt
William Seagle	Sidney Sugerman
Guy Van Schaick	W. P. Webb
Herbert Wenzel	Charles Whittemore
Thomas Wilson	[Charles Wood gone]

As noted in the preceding paragraph, the Board's bound decisions do not show a single reported case at which Judge Sugerman presided. In fact, during the timeframe of 1939 or well into 1940, Sidney Sugerman is listed on cases in the position of "Of counsel to the Board," meaning, of course, that he was serving in the old Review Section. See, for example, *New England Spun Silk Corp.*, 11 NLRB 852 (3-1-1939), and *Davidson Granite Co.*, 24 NLRB 370 (6-4-1940). This does not mean that he never became a regular-staff judge for the Division in that time period. Indeed, there have been one or two other instances in which a newly appointed judge either died shortly after reporting for duty (for example, C. Dale Stout in October 1979, as described later), or who left soon after their appointments. Thus, although Sidney Sugerman is acknowledged in this paper as having been appointed as a regular-staff judge, his tenure is deemed as having been very brief. He is assigned a deemed EOD date of March 1, 1940, per the reference, noted above, by Prof. Gross.

As already mentioned (and repeated in chapter 4, "Staffing numbers"), Prof. Gross is referenced for his report that as of early 1940 the Division had 39 regular-staff judges. *Reshaping* at 129 (with note 109 at 316) and 184. Unfortunately, as reported at 5 NLRB Annual Report 123, by the end of the fiscal year (June 30, 1940), 10 of the Division's then 35 judges were separated (a 28.6-percent layoff!) because of budgetary restraints. Thus, in the process of assigning deemed EOD dates, we have these numbers of 39 and 35 to check against. Only 6 of the above 20 are named on the January 10, 1957 roster. On that list Judge Ringer is shown with an early EOD date (10-1-1937), while

Judges Bellman and Bokart have EODs of 2-1-1938, and Judges Whittemore and Wilson EODs of 8-1-1938. For the others of the 22 named above (including Judge Wood but not Judge Hurley, who seems to have been only a per diem judge), EOD dates have to be deemed. The deeming process is explained in more detail later in chapter 6, Preface to the ABC List.

The following table shows scanned pictures of Judge Arthur Leff (EOD 5-13-1944) and Judge Thomas N. Kessel (EOD 4-15-1953). [As we saw just a few pages ago, both became Chief Judges. These pictures appear on their final photo-ID cards, and such photos of Judges Leff and Kessel capture their images when they were at the end of their careers and when each was the Chief Judge.] The pictures are late additions to the paper, and thanks for finding them (actually, their final photo-ID cards, from which scanned copies of the images were made) go to Chief Judge Giannasi, who, in these last few weeks before publication of the paper, has intensified his already generous time and efforts (including proofreading and finding old pictures) that he has devoted to this project. Although the quality of the scanned photos may fall a bit short of perfection, we can be very grateful that we have the images of these two great judges (on the left, Judge Leff; to the right, Judge Kessel) who once upon a time graced the NLRB trial bench.

	<p>Chief Judge Arthur Leff EOD 5-13-1944</p> <p>Chief Judge Thomas N. Kessel EOD 4-15-1953</p>	
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6. LIFE Magazine, *Weirton Steel*, and Judge Edward Grandison Smith

Take a slight detour for a moment. For some 65 years, the 39,000-page trial transcript of *Weirton Steel Company*, 32 NLRB 1145 (1941) (see *Reshaping* at 17) has been one of the biggest NLRB unfair labor practice trial records. Very few cases have generated records as large or trials as lengthy. As then Chief Judge Melvin J. Welles recalls in his July 1988 oral history interview for Cornell University, the *Kohler Co.*, 128 NLRB 1062, unfair labor practice trial generated some 65,000 pages of transcript. Judge George A. Downing (EOD 9-16-1948) presided on various dates between February 1955 and February 1957. 128 NLRB at 1143; *Welles* at 29-30. And Judge Lowell M. Goerlich presided at a backpay trial that, as Judge Welles recalls (*Welles* at 58), generated some 70,000 “hearing pages” that settled just as he was about to issue his decision, after having worked on the decision for about 2 years. This

was the supplemental trial to, apparently, *Darlington Mfg. Co.*, 139 NLRB 241 and 165 NLRB 1074. In recent years, we have the 41,000 page record generated during 165 trial days (from July 1994 to July 1996 before Judge David L. Evans) in *Avondale I*, 329 NLRB 1064 (1999). See release R-2453 (May 8, 2002) at the Board's website under the tab for Press Releases. Notwithstanding these larger records, *Weirton's* 220 trial days (so indicated by the 220 volumes of testimony, as mentioned in *Reshaping* at 17), and 39,000 page transcript, still leaves it as one of the Board's longest trials and largest records.

The trial in *Weirton Steel* opened on August 16, 1937, in the Hancock County Courthouse at New Cumberland, West Virginia, and closed on January 30, 1939. *Weirton Steel* at 1148. Two trial examiners, in sequence, presided. Judge Edward Grandison Smith (named there, and in some other cases, as E. G. Smith, and as Edward G. Smith in other cases) opened the record and presided until, it appears, a recess that began following the events on July 11, 1938. Either at a resumption scheduled by the Board for August 24, 1938 (*Weirton Steel* at 1149), or some days later, the second trial examiner, Judge James C. Batten, began presiding until the close of the trial.

On July 11, 1938, Judge Smith excluded *Weirton's* lead attorney, Clyde A. Armstrong, from the balance of the trial for, in effect, contempt on July 7, 1938. After granting an appeal from this ruling, and after itself holding a July 20, 1938 hearing on the matter, at which Judge Smith and attorney Armstrong, and perhaps others testified, the Board affirmed Judge Smith's exclusion ruling. *Weirton Steel Company*, 8 NLRB 581 (July 25, 1938). When the case on the merits reached the Board, it reaffirmed its earlier affirmance of Judge Smith's ruling. *Weirton Steel Co.*, 32 NLRB at 1154 (1941). With one modification, the Third Circuit enforced the Board's order. *NLRB v. Weirton Steel Co.*, 135 F.2d 494 (3d Cir. 1943) (also approving, at 496-497, the Board's affirmance of its earlier decision sustaining Judge Smith's ruling excluding attorney Armstrong).

Among the eight attorneys listed in the reported decision, *Weirton Steel Co.*, 32 NLRB 1145 at 1147 (1941), one is David Rein. Of interest for the Judges Division is that Attorney Rein presumably is the same David Rein who later joined the Division (EOD 1-1-1946, deemed).

In its September 6, 1937 issue, **LIFE** magazine has an article that it indexes (at 17) as, "*The National Labor Relations Board tries Weirton Steel.*" The article (**LIFE**, hereinafter), with several photos, begins at page 19 with a photo of the county courthouse and the courtroom scene (the accompanying text states that the courtroom photo, and presumably all of them, was taken on August 20, or 4 days after the trial began), with Judge Smith on the bench. This is followed by a six-paragraph text with the heading, "The New Deal

Dispenses A New Brand Of Justice To Labor And Industry.” In its opening text, the article states, at 19:

What makes the hearing so important is that Weirton Steel is run by Ernest Tener Weir, who happens to be among the most ruggedly individualistic employers in the country.

The article continues by stating that Weir does not intend to let either the Government or unions tell him how to operate his business. With the Board, however, “tough Mr. Weir is up against a much tougher opponent than NRA’s old National Labor Board.” **LIFE** at 19.

The article contains photos of, in addition to Judge Smith, the lawyers (including Weirton Steel’s lead attorney, Clyde Armstrong), some witnesses, and a good many spectators. Toward the end of the article it also has photos of officials of the Agency. The article briefly summarizes the legal process of an unfair labor practice trial (for example, “no jury”), and reports (at p. 22) that the Board’s success in the U.S. Circuit Courts, up to that point, was 16 wins and only 2 losses.

In the course of the Third Circuit’s enforcement opinion in *Weirton Steel*, the court states (internal footnote omitted), 135 F.2d at 496:

It is true that the hearings got off to a bad start under the administration of a trial examiner whom the Board subsequently withdrew from the case.

For its part, the Board states that Judge Smith “retired substantially before the close of the hearing.” 32 NLRB at 1155. If Judge Smith retired, his retirement was very brief, for the books show that he presided at Board trials and hearings during the balance of 1938, throughout 1939, and beyond the May 1942 Trial Examiners conference.

A sense of the atmosphere surrounding the *Weirton* trial is reflected in the July 25, 1938 decision of the Board sustaining Judge Smith’s ruling of exclusion. The Board there observes that in Steubenville, Ohio (a second location for the trial while Judge Smith was presiding) on July 13 (2 days after the ruling excluding Attorney Armstrong), a crowd gathered between the post office and the Fort Steuben Hotel. Those in the crowd were (8 NLRB 581 at 589-590, footnote omitted, emphasis added):

[C]arrying signs and placards which bore expressions outrageously slanderous of and derogatory to the Board, the Trial examiner, and the Board’s attorney. [Lead attorney, apparently.] At about the same time, **an effigy of the Trial Examiner was hung from a window of the hotel.** At the request of members of the crowd, [attorney] Armstrong came

out of the hotel, was lifted to the shoulders of some men, and addressed the throng [saying that he was proud of them and of their support of him].

In his book covering, for the most part, much later events at Weirton Steel, Phillip Hartley Smith (a member of Weirton Steel's board of directors from 1983 to 1994), describes Attorney Armstrong as "a brutally effective labor lawyer and aggressive litigator." *Board Betrayal (The Weirton Steel Story)*, 73 (2003).

Lawyers and judges might debate evidentiary rulings that are made under the pressure of a big trial, but surely virtually all would agree that Judge Smith appears to have been a model judge in terms of patience and courtesy. For nearly a year Attorney Armstrong had tested that patience and courtesy. It is likely that very few modern judges would have demonstrated such courtly patience for anything beyond the first few episodes of unruly behavior by a lawyer at trial. Eventually, Judge Smith could stand no more, and he acted. And indeed, his ruling excluding Attorney Armstrong was approved by the Board and specifically affirmed by the Third Circuit.

Gracing the cover of **LIFE's** next issue, on September 13, 1937, is a photo of Ernest Tener Weir, the principal owner of Weirton Steel. The six-page "photographic essay" that begins at page 36 of the issue shows scenes of the steel mill, its workers, the company town, and life there. Although the text does not contain additional information about the NLRB trial, the opening text does mention the allegations of the NLRB case, and then states, at page 37: "Mr. Weir's blanket answer is that he does not propose to let any one tell him how to run the business he built from the ground up (**LIFE**, Sept. 6)."

After the Third Circuit enforced the Board's order in *Weirton Steel*, the Agency found it necessary to institute contempt proceedings. Eventually, the Third Circuit issued its decree of contempt and ordered that Weirton Steel take the mandated action to purge itself of contempt. *NLRB v. Weirton Steel Co.*, 183 F.2d 584 (3d Cir. 1950).

Websites on the Internet discuss the history of Weirton Steel Company. According to a chronological list of events by Lois Alete Fundis, the reference librarian of the Mary H. Weir Public Library, Weirton, West Virginia, in April 1909 a predecessor company (with Ernest Tener Weir as president) bought land in the area and began operations. On August 1, 1918, Weir's 43rd birthday, the predecessor company changed its name to Weirton Steel Company. In November 1929, Weirton Steel merged with two other companies to form National Steel Corporation. Weirton Steel received 50 percent of the stock of National Steel, and Ernest T. Weir became the Chairman and Chief executive. Headquarters were set in Pittsburgh, Weir's hometown. On June 26, 1957, the same site reports, Ernest Tener Weir died at 81 years. In 1982 a plan evolved

to sell the Weirton Steel division of National Steel to the employees through an Employee Stock Ownership Plan (ESOP). Following a favorable vote in 1983, the “new” Weirton Steel Company (now employee owned) took over from National Steel on January 11, 1984. Most of Phillip Hartley Smith’s book, *Board Betrayal (The Weirton Steel Story)*, published in 2003 (and available through bookstores such as Barnes & Noble and Books-A-Million), treats events at Weirton Steel during the ESOP years.

These concluding notes. A few pages below, a photo of the 1942 Judges Conference, held in Annapolis, Maryland, is reproduced (followed by a copy of that picture with black key numbers marked on the images for the purpose of identification, to the extent possible at this late date).

In its September 1937 article, **LIFE** (at 22) records Judge Smith as being age 69. In 1942, at the Trial Examiners conference in Annapolis, Maryland, Judge Smith would have been almost 5 years older, or roughly age 74. The full May 1942 photo appears below in the section on “Staffing Numbers.” Look at the upper right section of the photo of the attendees at the May 1942 Trial Examiners conference, and especially at the copy with the black key numbers. In the upper right hand section of the picture (a copy of this inset is shown a few lines below), and just to the left of the young, dark-haired attendee in a light suit (key number 17), and slightly behind him to our left, is a white-haired judge (key number 19), balding at the front, wearing a dark suit. Although his look perhaps is sterner in 1942 than in 1937 (remember, August 20, 1937, was long before Judge Smith had reached the end of his patience with Attorney Armstrong), the white-haired man (key number 19) in the 1942 photo has been identified as Judge Edward Grandison Smith. The upper right section of the 1942 photo (with black key numbers) is reproduced here:

Phoebe Smith Ruckle of Charleston, West Virginia, a granddaughter of Judge Edward Grandison Smith, confirms that the older judge in the dark suit (number 19) and rather stern expression in the May 1942 photo inset here is indeed her grandfather, Judge Smith.



Ms. Ruckle also advises that Judge Smith, who was born April 8, 1868, died on February 17, 1944, at the age of 75. Judge Smith's passing was front page news for the February 18, 1944 issue of the *Clarksburg Exponent* which, with Judge Smith's photo prominent, printed a lengthy article that had to be continued on page two. Judge Smith is buried at West Milford, West Virginia, a few miles south of Clarksburg.

7. Presiding Over Both "C" and "R" Cases

As described in the Board's first few annual reports, judges ("trial examiners") not only presided over unfair labor practice trials ("C" cases), but also over representation hearings ("R" cases). See, for example, 2 NLRB Annual Report at 8; 3 NLRB Annual Report at 243; and 4 NLRB Annual Report at 149. See, also, *Making* at 165 and footnote 73. During the fiscal year ending June 30, 1940, budgetary constraints dictated a policy change. The change is described as follows in the Board's 5th Annual Report at 123, for the fiscal year ending June 30, 1940, that Board Chairman H. A. Millis transmitted to the President and to the Congress on February 26, 1941 (emphasis added):

Members of the Trial Examiners Division are assigned to preside over hearings on formal complaints, alleging the commission of unfair labor practices, and on petitions for certification of representatives. * * * In cases involving certification of representatives they prepare memorandum reports for the Chief Trial Examiner. [Internal footnote omitted.]

Budget reductions occurring during the year made a reduction in personnel of the Trial Examiners Division necessary. Ten of the thirty-five trial examiners were separated from the Division. This reduction in personnel made it impossible for staff trial examiners to continue to hear all of the scheduled hearings in representation cases. It was, therefore, determined by the Board to use employees attached to the regional staffs as **trial examiners**, in those representation cases which, because of the issues involved, did not require the services of a staff trial examiner. Such designations of persons attached to the field staff, as trial examiners, have been made in a number of cases. The practice so inaugurated has been successful. **Employees attached to the field staffs of the various regional offices have heard approximately 90 percent of all of the representation cases since June 1, 1940.**

As the Board's bound volumes of decisions reflect, this new policy was begun with four hearings on Monday, May 27, 1940. Of these four, the first hearing was presided over by Garnet L. Patterson, as reported at 24 NLRB 606

(6-12-1940). The previous FY, ending 6-30-1939, Patterson is shown as the Regional Director at Chicago, IL — Region 13. 4 *NLRB AR* 15. For the fiscal year involved here, the one ending 6-30-1940, the Regional Attorney, Isaiah S. Dorfman, is also shown as the Acting Regional Director. 5 *NLRB AR* 10. At 31 NLRB (covering decisions issued April 16 to May 31, 1941), on page iii, the page listing Board officials, Garnet L. Patterson, for the first time, is shown as the “*Director of Field Division.*” Patterson apparently left Chicago, at some point, to join the General Counsel’s staff in Washington to become the Director of Field Operations. Judge George Bott, who also served a term as General Counsel and also as the Regional Director, at different times, of two Regional Offices (Kansas City and then Chicago) confirms as much. *Bott* at 26-28, 38. What is missing is the time sequence. Apparently, as of this hearing on May 27, 1940, Patterson either had already given notice of his departure, or had in fact departed Chicago for his new position, and then returned to preside at this first hearing under the new policy.

Two of the other three “trial examiners” on that May 27 were Regional Attorneys (Arthur R. Donovan at Indianapolis, Region 11; 24 NLRB 61; and Thomas R. [or “P”] Graham at Seattle, Region 19; 24 NLRB 967), and the third (24 NLRB 1077) would soon become the Regional Attorney at Cleveland, Region 8 — Max W. Johnstone. 7 *NLRB AR* 193 for FY ending 6-30-1942. This pattern, of mostly Regional Attorneys serving as the “trial examiners” for the first four “R” case hearings under the Board’s new policy, also was substantially the situation in the other cases heard during the first several weeks after the new policy was implemented. Eventually, most of the Regional Attorneys stepped back and other personnel at the Regions began presiding as “trial examiners” at these routine representation case hearings.

The following year the Board commented, respecting “R” cases, as follows in 6 NLRB Annual Reports (for the fiscal year ending June 30, 1941) at 9 (emphasis added):

In uncomplicated cases, for the purpose of expeditious handling, employees attached to Regional Offices are assigned as **trial examiners** to hear formal representation cases. The assignment is made by the Chief Trial Examiner, and Trial Examiners from Washington are sent into the field only in cases involving complex factual or legal problems.

And at 7 NLRB Annual Reports at 14:

While staff Trial Examiners are always assigned to hear complaint cases, they are assigned only on the more difficult and complex representation cases. In the routine representation case, the Chief Trial Examiner designates one of the regional staff to conduct the hearing.

Following the 1947 amendments to the Act, and apparently in light of Section 9(c)(1)(B) [“Such hearing may be conducted by an officer or employee of the regional office,”], the Board wrote as follows at 13 NLRB Annual Report (for the fiscal year ending June 30, 1948) at 7:

The decision-making procedures in representation cases are somewhat different. Upon issuance of a notice of hearing by a regional director, the hearing is usually conducted by an officer attached to the regional office, rather than by a trial examiner.

In checking the names of judges in the Board's bound volumes, while weight is attached to the number of “R” cases heard by a judge, primary reliance is placed on the names of those judges presiding at trials in unfair labor practice cases in determining whether such judges should receive a “deemed” EOD date as a regular-staff judge of the Division. This is so because, as highlighted above, from May 27, 1940, through the balance of the Wagner Act years, regular-staff judges presided at only some of the “R” cases, with Regional Office personnel handling the bulk of them. Before that date, judges handled most of the representation cases, but not all of them, and before August 1, 1938, the judge presiding sometimes was one of the several per diem judges on call by the Division. Moreover, whether before or after May 27, 1940 (through the Wagner Act years), the person presiding at a representation case was declared to be the “trial examiner duly appointed by the Board” (and, later, duly appointed by the “Chief Trial Examiner,” and still later the appointment process is omitted in the published decisions and the person is simply named as the “trial examiner”).

Despite all this, the reported decisions reveal certain tell-tale signs. Thus, if a named trial examiner never heard more than a handful of reported cases (particularly if those were “R” cases), or heard only a few short cases (again, mostly “R” cases) sporadically over the course of perhaps a year or so, chances are strong that such person was either a per diem judge or, particularly in the early months, someone from any of a variety of positions inside, or outside, the Agency, and was not a regular-staff judge. By contrast, in the early years most of the regular-staff judges (those either with Division EOD dates or deemed EOD dates) are shown, in the reported cases, as having presided at a substantial number of cases, both “C” and “R.”

8. The Judges’ Decisions

Respecting the judges’ written decisions (“Intermediate Reports,” then), in the early years they ordinarily were not attached to the Board's decisions. [Exceptions to this general rule can be found. See 20 NLRB 166, for example.] Indeed, until the Board changed its rules in September 1941, trial examiners submitted their Intermediate Report (IR) to the appropriate Regional Director

who served copies on the parties and the Board. See the Board's 7th Annual Report, for the fiscal year ending June 30, 1942, at 9; and F. Witney, *Wartime Experiences of the National Labor Relations Board* 237 footnote 9 (1949). For the preliminaries to that change, see *Reshaping* at 230-231. Before this 1941 change, after the Board received the record and the IR, it used the IR simply as an aid in making its own decision. *Wartime Experiences* at 237. Following the September 1941 rule change, the Board began using the IR as the foundation for its formal decision and order. *Wartime Experiences* at 237; *Reshaping* at 230-231. Thus, in the early years the Board, after reciting that the judge had filed an intermediate report, and that exceptions were filed to that report, then proceeded to write its findings of fact (obviously relying to some extent on the judge's intermediate report) and to state its conclusions and decision. By NLRB Volume 45 (part of 1942), we see the result of the September 1941 rule change, for the Board has begun (usually) attaching, to its (now shorter) decisions, the Intermediate Reports of the judges.

9. Judges Who Have Been Board Members or General Counsels*



[*Since the fall of 1961, at least for Agency titles, the Agency has used the Anglicized plural for counsel. See, for example, "Chief Counsels" at NLRB Vol. 133 at ii. Respecting such titles, that policy is applied in this paper.]




Over the years, there have been a few instances of movement to or from the positions of presidential appointment and the Division. At the Board level, the first occasion was President Eisenhower's November 1955 nomination of "little-known trial examiner Stephen Bean to the Farmer vacancy." See the third book by Prof. Gross on the Board, *Broken Promise*, at 129 (1995). As reflected at the Board's website, www.nlr.gov (click on Organization), Member Bean's term ran from 12-1-1955 to 8-27-1960. As shown on the LOS, below, on the day (8-28-1960) after his term ended, he resumed his duties as Judge Bean.

As of the August 2004 publication of this paper, three other Board members (in addition to Member Bean) became judges after completing their terms on the Board. Ivar H. Peterson, President Truman's last appointment to the Board, was not reappointed when his term there ended August 27, 1956. *Broken Promise* at 100, 150; www.nlr.gov/organization. (Judge Peterson's EOD date of 12-3-1962 therefore reflects a 6-year gap before he joined the Division.) A judge on the South Dakota Supreme Court when appointed April 4, 1955, to the Board by President Eisenhower, Member Boyd S. Leedom was designated in late 1955 to be Chairman. Leedom served in that capacity until replaced in 1961 by President Kennedy's choice for the position, Frank McCulloch. Leedom completed the remaining nearly 4 years of his second term as a member of the Board, with that term ending 12-16-1964. *Broken*

Promise at 124-125, 129, 147, 195; www.nlrb.gov. Judge Leedom's EOD date with the Division of January 5, 1965 reflects that he ascended the trial bench after a vacation over the Christmas holidays. Judge Mary M. Cracraft, EOD date of 1-22-1995, served as a member of the Board from 11-07-1986 to 8-27-1991. See the Board's website, www.nlrb.gov (click on the tab for About Us, then Structure, then Board), and *Broken Promise* at 386 footnote 176.

John C. Miller, who had served as Acting General Counsel from August 15, 1975, to November 30, 1975, before being appointed to the Division (EOD 7-3-1977), later served as Chief Counsel for Board Chairman John R. Van de Water from August 1982 to Chairman Van de Water's departure in December 1982. About a week later, on December 23, 1982, Miller himself was appointed to the Board and 4 days later he was named the Chairman, a position he held until his recess appointment expired on March 7, 1983. Thus, five of our judges have served as Board Members, and two of those, Judges Boyd Leedom and John C. Miller, have served as Chairman. Here are the photos of those five, as the images appear in the Agency's 1995 publication (reproduced on the Agency's website; click on Publications), *The First Sixty Years*, at pages 50-53. (The symbol numbers set by Judge Bean's EOD date, and the EOD dates of some other judges, are part of the deeming process that is explained later.)

JUDGES WHO HAVE SERVED AS BOARD MEMBERS		
Ivar H. Peterson EOD 12-3-1962 <i>The First Sixty Years</i> Page 50		Board Member 3-21-1952 – 8-27-1956
Boyd S. Leedom EOD 1-5-1965 <i>The First Sixty Years</i> Page 50		Board Member 4-4-1955 – 12-16-1964 Chairman 11-2-1955 – 3-6-1961

Stephen S. Bean EOD 2-1-1950C <i>The First Sixty Years</i> Page 50		Board Member 12-1-1955 – 8-27-1960
John C. Miller EOD 7-3-1977 <i>The First Sixty Years</i> Page 52		Board Member 12-23-1982 – 3-7-1983 Chairman 12-27-82– 3-7-83
Mary M. Cracraft EOD 1-22-1995 <i>The First Sixty Years</i> Page 53		Board Member 11-7-1986 – 8-27-1991

During the years of the Wagner Act, one of the General Counsels for the Board had been one of our judges — Alvin J. Rockwell. He served as General Counsel for a bit over 20 months, as shown on the Board's website: January 1, 1944, through September 16, 1945. Go to www.nlrb.gov and click on the tab “About Us.” Then under the topic for “Structure,” click on “General Counsel.” On that screen, click on the link to “GC and terms since 1935.”

Since the 1947 amendments to the Act made the General Counsel a presidential appointee, five of our judges have served (two of the five in a brief acting capacity) as the General Counsel — Robert N. Denham, from 8-1-1947 to 9-15-1950; George J. Bott, from 9-29-1950 to 12-20-1954; and Arnold Ordman, from 5-14-1963 to 6-25-1971. Eugene Goslee (EOD 11-28-1971) served as the Acting General Counsel for about 2 months from late June 1971 to late August 1971, as did John C Miller (EOD 7-3-1977), who served 8-15-1975 to 11-30-1975. www.nlrb.gov. Thus, as Prof. Gross notes in *Broken Promise* at 381-382, fn. 64 (citing the Agency’s press release R-1679), John C. Miller holds the distinction as being the only NLRB judge who has served

(either in a regular or acting term), at separate times, as both a Board Member and as the General Counsel. As described in the Agency's December 27, 1982 press release (R-1679) announcing Miller's appointment as the Board's Chairman:

In the NLRB's 46-year history, Mr. Miller is the only individual to serve in both capacities as Chairman and Acting General Counsel, the latter position also a Presidential appointment post with authority and responsibility separate from the Board.

Although Judge Denham's name does not appear on any of the Division's available rosters, there is no question that he was a Trial Examiner during some of the early years. For example, see *Henry K. Phelps, Jr., Trustee in Bankruptcy of Atlas Pipeline Corp.*, 45 NLRB 1163, 1172 (1942), a case in which Judge Denham was the trial examiner. And see *Broken Promise* at 19 where Prof. Gross writes (footnote symbol omitted):




Truman, therefore, caused surprise, disappointment, anger, and much speculation when he nominated for general counsel a nationally unknown, sixty-two-year-old NLRB trial examiner, Robert Denham, considered within the agency controversial, an aggressive conservative, and a man of "enormous ego" who was definitely no diplomat.



In *Broken Promise* Prof. Gross devotes discussion, and notes, to Judge Denham's term as General Counsel, a term that ended prematurely under circumstances described by Prof. Gross at pages 62, 65-69, and 309-315. Prof. Gross reports, in *Broken Promise* at 20, that Denham became "a per diem trial examiner at the NLRB" in 1938, and that he served for 9 years as a trial examiner before beginning his service as the General Counsel. Of course, the "per diem" time frame reasonably would be interpreted as in the months leading up to the Board's decision, effective August 1 of that year, to assign only regular staff judges to preside at ULP trials. Moreover, the Board's bound volumes show that Judge Denham presided at ULP trials on both sides of August 1, 1938. As will be seen below, for this paper the deemed EOD date for Judge Denham is set as March 1, 1938, the month that he first began presiding.

Judge Bott's EOD date of 2-1-1960 indicates a gap of over 5 years after his term as General Counsel ended in late December 1954 and before he joined the Division. Prof. Gross covers Judge Bott's term as General Counsel in *Broken Promise* at 72-73, 124, 126, 136-137. As Bott reports, he was in private practice during this 5-year gap. *Bott* at 67.

With an EOD date of April 20, 1959, Judge Ordman was with the Division before he left in June 1961 (see the LOS). As reflected by the page listing Agency officials in the Board's 25th Annual Report for the fiscal year

ending June 30, 1960, Judge Ordman left at his May 29, 1961 appointment to be Chief Counsel to the recently appointed Board Chairman Frank W. McCulloch. In May 1963 Ordman was appointed by President Kennedy to serve as General Counsel, leaving that position (after two terms) in June 1971. *Broken Promise* at 194-195, 221; www.nlr.gov (then click on the tab for About Us;” under the topic for the NLRB’s structure, click on “General Counsel”, and finally “GC and terms since 1935). As the Board's bound volumes of decisions reflect, Judge Ordman returned to the Division following his service as the General Counsel. His first case back appears to have been *Ring Metals Co.*, 198 NLRB 1020 (1972) (trial in 9/1971; TXD issued 10-29-1971), with his last reported case apparently being *McClure Associates*, 223 NLRB 580 (1976) (trial in 8/1975; JD issued 11-7-1975). Thus, Judge Ordman apparently retired in November 1975.

JUDGES WHO HAVE SERVED AS THE GENERAL COUNSEL			
Alvin J. Rockwell EOD 9-1-1937 ² <i>The First Sixty Years</i> Page 54			General Counsel 1-1-1944 – 9-16-1945
Robert N. Denham EOD 3-1-1938 ² <i>The First Sixty Years</i> Page 54			General Counsel 8-1-1947 – 9-15-1950
George J. Bott EOD 2-1-1960 <i>The First Sixty Years</i> Page 54			General Counsel 9-29-1950 – 12-20-1954

<p>Arnold Ordman EOD 4-20-1959•</p> <p><i>The First Sixty Years</i></p> <p>Page 54</p>		<p>General Counsel 5-14-1963 – 6-25-1971</p>
<p>Eugene G. Goslee EOD 11-28-1971</p> <p><i>The First Sixty Years</i></p> <p>Page 55</p>		<p>Acting General Counsel 6-26-1971 – 8-23-1971</p>
<p>John C. Miller EOD 7-3-1977</p> <p><i>The First Sixty Years</i></p> <p>Page 55</p>		<p>Acting General Counsel 8-15-1975 – 11-30-1975</p>

As an interesting bit of coincidence, appearing on the list of Agency officials, following the title page for the Board's 28th Annual Report for the fiscal year ending June 30, 1963, are six persons who either had been, would be, or would be again, judges in the Division: Board Member Boyd Leedom (EOD date of 1-5-1965); Arthur Leff (Chief Counsel to Chairman McCulloch), with an EOD date of 5-13-1944 and Chief Judge during 1980; Harry H. Kuskin (Chief Counsel to Member Leedom), with an EOD of 4-15-1965; Ralph Winkler (Chief Counsel to Member Brown), with an EOD of 4-3-1950; Chief Trial Examiner George Bokar (EOD of 2-1-1938), and Arnold Ordman, General Counsel (EOD 4-20-1959).

Similarly, at 122 NLRB (covering decisions issued November 1, 1958, through February 28, 1959), at page iii (the page listing Agency officials), there are 17 officials named. Of the 18, seven either had been, would be, or would be again, Division Judges: Chairman Boyd Leedom (EOD 1-5-1965), Member Stephen S. Bean (EOD 2-1-1950), Chief Counsel (Leedom) Harry H. Kuskin

(EOD 4-15-1965); Chief Counsel (Rodgers) Thomas F. Maher (EOD 5-11-1959); Chief Counsel (Joseph Jenkins) John F. Funke (EOD 4-16-1959), Solicitor James V. Constantine (EOD 10-2-1961); and Chief Trial Examiner William R. Ringer (EOD 10-1-1937).

OFFICE LOCATIONS AND PHOTOS

For over 20 years the Division has operated from four offices for our judges: Washington, D.C., San Francisco, New York City, and Atlanta. Not so at the beginning. Thus, for the first 15 years or so, the headquarters office in Washington, D.C. was the only office for the judges. Around January 1951, the Board opened a West Coast office for a contingent of judges at San Francisco, California. Although the first mention of the San Francisco office in an annual report of the Board does not appear until the 28th Annual Report, for the fiscal year ending June 30, 1963, at 8, the July 1951 San Francisco telephone directory, at page 664, shows a listing for the office. No listing appears in the 1950 directory.

This time of early 1951 as the opening date of the San Francisco office is further supported by the case assignments. Thus, before 1951, the judges usually recited that they had been designated by the “Chief Trial Examiner.” A brief change occurred in early 1951 when some of the judges wrote that they had been designated by “the Associate Chief Trial Examiner.” See, for example, that declaration by Judge A. Bruce Hunt, for a trial that opened in late February 1951 at Seattle, Washington, 98 NLRB 22, 26 (1952). Even if the designation of Judge Hunt was made in early February, the office itself probably would have been opened several days earlier just to get organized and have telephones installed. Judge Hunt made the same recitation in a trial that opened in March 1951 at Spokane, Washington, 95 NLRB 1034, 1040 (1951), as did Judge Martin S. Bennett in a trial that opened in April 1951 in Medford, Oregon, 96 NLRB 165, 171 (1951). So did Judge Wallace E. Royster in a trial that opened in May 1951 in Modesto, California, 96 NLRB 570, 575 (1951).

Moreover, it is clear that “the” Associate Chief Judge involved was William E. Spencer: 96 NLRB 196, 204 fn. 1 (1951) (Judge J. J. Fitzpatrick observing that “Associate Chief Trial Examiner William E. Spencer opened the hearing” and after “the receipt of the formal papers but before any evidence was taken I was designated to conduct the hearing.”) This and the other cases are all West Coast cases. Judge Spencer opened the trial on December 12, 1950, at Los Angeles. Rather than suggesting that the San Francisco office already was operating by the opening trial date here, this trial probably was one of the last ones conducted before the San Francisco office became operational.

The New York office was opened in September 1979. As reported in the Board's 44th Annual Report at 3, during the fiscal year ending September 30, 1979, "In another move to provide improved service to the labor relations public," the Board opened its third Judges' office, this one in New York City. The very next year, in May 1980, and for the same stated purpose, the Board opened its fourth office for the Judges, this one at Atlanta, Georgia. 45th Annual Report, for the fiscal year ending September 30, 1980, at pages 2-3. With the advent of "flexi-place" agreements during the early 1980s, the Division has permitted a significant number of judges to work from their homes in various states throughout the country. Nevertheless, such judges remain assigned to one of the four offices of the Division.

Photo of the Division Chiefs













Photos of Some Individual DC Judges

Generally taken during the 1990s, individual photos of a few of the DC judges are shown below. Two of the judges have since transferred — Judge James Rose to the SF office, and Judge John West to Atlanta, as the more

recent staffing rosters show. Others in the group have retired (not all retirement dates are available), including Judge Michael Miller, who, sadly, also has died. An article reporting Judge Miller's January 2004 death appears in the February 2004 issue of *All Aboard* at 7. (Some listings for retirements and deaths are shown much later, just before the ABC List of Judges.) The photo of Judge Leonard Wagman, furnished by the courtesy of Chief Librarian Kenneth Nero, is from the December 2001/January 2002 issue of *All Aboard*, at 9, where it accompanies an "Employee Profile" article, "Fulfillment Through Service," about Len Wagman by Judge Bob Schwarzbart.

DC JUDGES—INDIVIDUAL PHOTOS

				
George Aleman EOD 1-22-1995	Arthur Amchan EOD 9-1-1996	Richard Beddow EOD 7-26-1981 Retd: 2001	Harold Bernard EOD 4-8-1979	Karl Buschmann EOD 9-28-1975
				
Peter Donnelly EOD 5-1-1974	David L. Evans EOD 7-30-1978	Lowell Goerlich EOD 4-9-1965	William Jacobs EOD 10-5-1975 Retd: 1-3-1997	William Kocol EOD 9-15-1996

A HISTORY OF THE NLRB JUDGES DIVISION

				
Martin J. Linsky EOD 9-8-1981	Michael O. Miller EOD 1-5-1975 Retd: 5-22-1998	C. Richard Miserendino EOD 9-1-1996	Arline Pacht EOD 5-4-1980 Retd: 1-3-1997	Bernard Ries EOD 11-18-1974
				
James L. Rose EOD 10-5-1975	Bruce D. Rosenstein EOD 1-5-1997	Marvin Roth EOD 3-2-1975	Benjamin Schlesinger EOD 7-18-1978	Robert Schwarzbart EOD 3-16-1975 Retd: 2002
				
Richard A. Scully EOD 1-18-1981	Earl Shamwell Jr EOD 1-19-1997	Leonard Wagman EOD 2-12-1973 Retd: 2003	Robert Wallace EOD 1-18-1981	John H. West EOD 1-18-1981
				
Thomas R. Wilks EOD 2-1-1976 Retd: 3-30-2001	Claude R. Wolfe EOD 6-20-1976 Retd: 1-3-1995			

**Please Welcome This Distinguished Panel
Drawn From Some of Our Newer DC Judges**

		
		<p>John T. Clark (EOD 7-31-2000)</p> <p>See appointment article and photo in July/August 2000 issue of <i>All Aboard</i> at 8.</p>
		<p>Michael A. Rosas (EOD 8-25-2003)</p> <p>Appointment article appears in the October 2003 issue of <i>All Aboard</i> at 9.</p>

A HISTORY OF THE NLRB JUDGES DIVISION

	 A photograph of Joseph Gontram, a man with short grey hair, wearing a dark suit, white shirt, and dark tie. He is seated at a dark wooden desk with his hands clasped in front of him. To his left is an American flag, and to his right is a flag with a circular seal.	<p>Joseph Gontram (EOD 1-13-2003)</p> <p>Appointment article and photo appear in February 2003 issue of <i>All Aboard</i> at 10.</p>
	 A photograph of Paul Buxbaum, a man with glasses and a mustache, wearing a dark suit, white shirt, and a striped tie. He is seated at a dark wooden desk with his hands clasped in front of him. To his left is an American flag.	<p>Paul Buxbaum (EOD 6-4-2001)</p> <p>Appointment article and photo appear in June 2001 issue of <i>All Aboard</i> at 9.</p>

PHOTOS OF SOME DC STAFF

Of those DC staff members in the following pictures, Division Staff Assistant Anna Marie Wehausen has retired (June 2003), and, sadly, then Division Staff Assistant Chester Cooke died on August 17, 1998, at the young age of 50. An “In Memoriam” article on his passing appears in the September 1998 issue [Vol. 5 #2], at 4, of *All Aboard*.

SOME DC STAFF, INDIVIDUAL PHOTOS			
			
Barbara Brown	Chester Cooke	Carletta Davidson	Barbara Hawkins
			
Malissa Lambert	Rechona Jenkins	Anna Marie Wehausen	

Photos of Some San Francisco Judges

The following photo was taken at the November 2002 retirement party for Judge Michael D. Stevenson:

At November 2002 Retirement Party for Judge Michael Stevenson



Shown at the left is retired Judge Richard D. Taplitz (EOD 6-17-1968). Judge Burton Litvack (EOD 8-13-1979) is in the center. On the right is retiring Judge Michael D. Stevenson (EOD 4-20-1979). Behind the camera: Associate Chief Judge William L. Schmidt (EOD 12-3-1979).

On The Trail—Some Members of The SF ALJ Hiking Club—Near Point Reyes, CA, and the Pacific Ocean March 20, 2002



From the left: Timothy D. Nelson (retired; EOD 9-5-1978); Mary Miller Cracraft (EOD 1-22-1995); Richard (Dick) Taplitz (retired; EOD 6-17-1968), trail leader; and Jay R. Pollack (EOD 12-4-1979), with William L. Schmidt (EOD 12-3-1979) behind the camera.

**SF Office Holiday Party
December 19, 2002**



Left side, front to back, as Judge William Schmidt reports, are: Patricia Schwar (SF Chief's secretary); Michael D. Stevenson (EOD 4-20-1979; now retired); and Richard J. Boyce (EOD 3-4-1973; then retired).

Right side, at front, Richard D. Taplitz (EOD 6-17-1968; then retired); Doreen Gomez (SF docketing clerk); John Jay McCarrick (EOD 12-31-2000) and wife, Eileen McCarrick; and Mary Miller Cracraft (EOD 1-22-1995).

Others at the well-appointed table, but not shown in the picture, include Burton Litvack (EOD 8-13-1979); Gerald A. Wacknov (EOD 7-4-1976); Susan George (SF Office Manager); Vanise Lee (SF Legal Tech); Frances Tsang (SF Legal Tech); and William L. Schmidt (EOD 12-3-1979) behind the camera.

Photo of Atlanta Judges

A photo, taken in 1981, of the Atlanta judges then available, appears below:



Seated, left to right, in the photo are J. Pargen Robertson, Hutton S. Brandon (the Associate Chief Judge for the Atlanta Branch), and Leonard N. Cohen (who died in August 1984, some 3 years after this photo was taken). Back row, left to right, are Howard I. Grossman, Robert A. Gritta, William N. Cates (who succeeded Judge Brandon as the Associate Chief Judge), Lawrence W. Cullen, and Richard J. Linton. As of this publication, Judges Brandon, Grossman, Gritta, and Linton have retired and Cohen, as noted, has died.

STAFFING NUMBERS, CONFERENCES, AND ROSTERS

1. Introduction

Although greater than that prevailing in the early years, the number of the Division's judges, a number that has contracted in recent years, has seen several expansions and contractions. The first expansion, of course, occurred in the fiscal year following the Supreme Court's April 1937 decision upholding the constitutionality of the Act. Thus, from June 30, 1937, to June 30, 1938, the number of regular-staff judges went from 11 to 24. *Making* at 239, footnote 29. (Indeed, recall from chapter 2,4, "The Chief Judges," the Congressional testimony of Chief Trial Examiner George Pratt that when he arrived in Washington in mid-November 1937, there were "24 regular examiners and possibly 40 to 50 men on a per diem basis.") As mentioned earlier, during the fall of 1939 and into early 1940, as Prof. Gross reports, the Division had 39 regular-staff judges. *Reshaping* at 129 (with note 109 at 316) and 184.

Alas, in the fiscal year ending June 30, 1940, 10 of the Division's then 35 judges (some 28.6 percent) were separated based on budgetary restraints. 5 NLRB Annual Report at 123. Indeed, as there described, thenceforth the Division no longer would assign judges to preside at Representation case hearings that appeared to be less than complex. (Actually, since June 1, 1940, Regional Office staffs had been handling 90 percent of the routine cases anyway. 5 *NLRB Annual Report* at 123.) Even so, as one turns the pages of the Board's bound volumes, he or she sees that Division judges frequently presided over "R" cases (most of these are "initial" preelection proceedings, but some involve objections or challenged ballots).

2. Annapolis Conference of May 1942

On May 20-22, 1942, the Division held a Trial Examiners Conference at Annapolis, Maryland. Most of what we know today about that conference derives from a photograph taken of the attendees — 51 by count (with two of these being Board members). A copy of that photograph appears at page 19 of *The First Sixty Years*. (A slightly enlarged version of the photo appears at

page 30 of *The First 50 Years*. As already noted, however, only the former publication is shown on the Board's website.) The May 1942 photo is reproduced here:



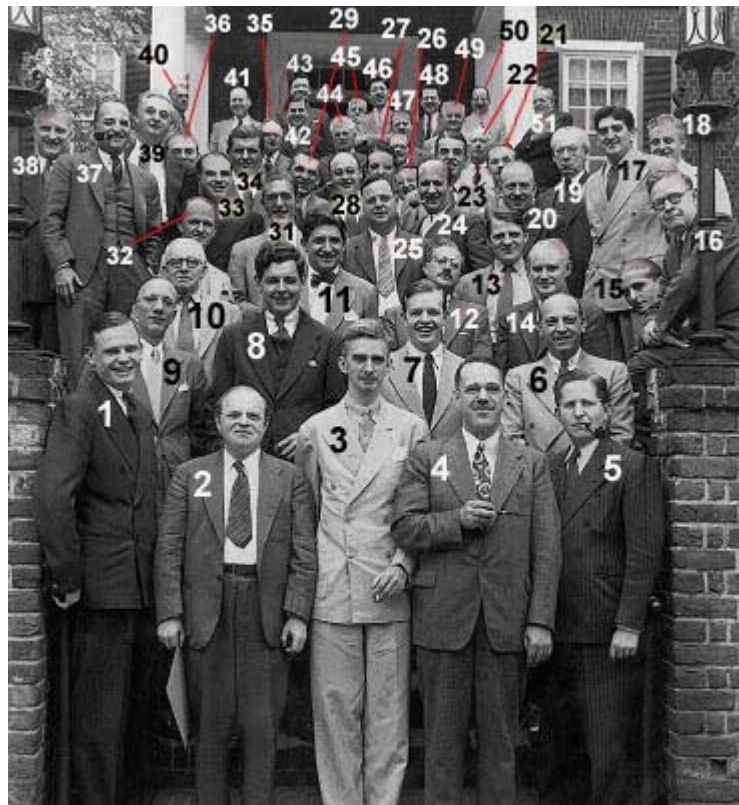
(The foregoing photo is a copy descending from the original copy given to Judge Edward Grandison Smith. Judge Smith's granddaughter, Phoebe Smith Ruckle of Charleston, West Virginia, graciously supplied a copy for this paper.)

The inscription at the bottom of the photo reads:

**TRIAL EXAMINERS' CONFERENCE
NATIONAL LABOR RELATIONS BOARD
ANNAPOLIS, MARYLAND — May 22-24, 1942**

Recall from the paragraph just before the section on the LIFE Magazine article about *Weirton Steel*, in June 1940 the Division was hit with a 28.6-percent layoff, from 35 judges down to 25 (or possibly 26). As we shall see in a few pages, the reconstructed roster for May 1942 shows 33 judges. Thus, the number of 49 “trial examiners” (51 minus the 2 Board members) attending the May 1942 Trial Examiners Conference, coming not even 23 months after a major layoff (over 28 percent) of the judges on staff, raises immediate questions. First, do the Board's annual reports for fiscal years 1941 and 1942 indicate a big surge in case filings and trials? (The answer is no.) Second, do the annual reports for those 2 years mention or suggest a net increase in the staff of judges? (Again, the answer is no.) Third, does the Agency’s budget take a great leap forward? (No, again.) Then how do we get from 25 (or 26) judges as of early July 1, 1940, and 32 judges on the reconstructed May 1942 roster, to 49 “trial examiners” — a 53-percent increase in the same month? Did the Division really acquire an extra 16 judges? In a moment the probable explanation is suggested, although a hint of the answer is reflected in the name of at least one attendee.

Respecting the names of the attendees in the May 1942 photo, Chief Judge Robert Giannasi provides several names based on evidence he has received in the form of oral reports or written notes from Chief Judge Melvin Welles (now retired), Deputy Associate General Counsel Norton J. Come (now deceased), and James C. Paradise (a trial examiner from the late 1930s until about early 1942). Also, Chief Judge Pratt’s son, Sherwood Pratt of Brookline, Massachusetts, has identified for us the image of his father in the photo. A numbering system assists in matching names to some of the faces appearing in the photo, and a numbered and cropped copy of the 1942 photo follows (for some computers, there may be a lapse of a few seconds before the photo appears):




From information appearing with the 1942 photo at page 19 of *The First Sixty Years*, we know that, of the five men in the front row, the second and third from the left are, respectively, Board Members William Leiserson (number “2”) and Gerard D. Reilly (number “3”). To Member Reilly’s left is Assistant Chief Judge William R. Ringer (number “4”). Since at least June 1940, Chief Judge Pratt had two assistant chief trial examiners. 5 *NLRB AR* 123, fn. 1. (By 1948 the title was Associate Chief Trial Examiner. 13 *NLRB AR* 5.)

Shifting back to the left side of the photo, we see, in the second row, Judge Horace A. Ruckel (number “9”). To Judge Ruckel’s left, the tall, young man (number “8”) in a dark suit, is Assistant General Counsel Gerhard P. Van Arkel (and a future General Counsel – July 1946 to June 1947). To Van Arkel’s left is Chief Judge George O. Pratt (number “7”). On the next step up, and directly behind number “6,” is Assistant Chief Judge Frank Bloom (number “14”). In just about the center of the group, and some two rows back of Judge Pratt, we see Judge Earl Bellman (number “25”). To Judge Bellman’s right, in the light suit and dark tie, is Judge Bruce Hunt (number “31”). Two steps back, and clearly visible over Judge Hunt’s right shoulder, is Judge Martin Raphael (number “34”).

Moving over to the top right side of the 1942 photo, we see the section previously reproduced which contains the image of Judge Edward Grandison Smith (number "19") with the white hair and wearing a dark suit standing next to a young man (number "17") with dark hair and wearing a light suit. In his March 1970 oral history interview, former Judge Will Maslow implies that he attended this 1942 Annapolis conference. *Maslow* at 32. Presumably, therefore, Judge Maslow is one of those appearing in the above photo.

Based on a perceived familial resemblance with Judge James M. Fitzpatrick (EOD 6-7-1968), some judges think it is possible that #44 in the 1942 photo is the father, Judge James J. Fitzpatrick (EOD 12-1-1937). (A zoom-in copy of that image is shown in a moment.) This paper has no picture of the son, Judge James M. Fitzpatrick. Per the LOS, Judge James J. Fitzpatrick died on 1-22-1953. To #44's left and down slightly is #27. As discussed later, evidence indicates that #27 is probably Judge George Bokar.

An interesting coincidence appears in the May 1942 picture. At least three judges, and probably four, in the photo either were then (Chief Judge Pratt), or were to become, the Chief Judge of the Division. In fact, they include the first three to occupy the Office of Chief Judge that was established in November 1937. The four, in succession, were at the helm of the Division for nearly 35 years, from November 1937 through June 1972. Three of the four are clustered rather close together in the full photo above. A cropped portion that includes these three is shown below:

	<p>In this cropped portion, or inset, we see a closer view of the images of three who either were then or were to become the Chief Judge of the Division:</p> <p>#7 George O. Pratt, Chief Judge from 11-15-1937 to 8/1942.</p> <p>#14 Frank Bloom, Chief Judge from 8/1942 through 12/1946.</p> <p>#4 William R. Ringer, Chief Judge 1/1947 through 11/1961.</p> <p>#27 As mentioned above, #27 is probably George Bokat, who was Chief Judge 12-1-1961 to 6-30-1972. His image, a bit difficult to see in the full photo, is compared later with a photo taken at about the time of his 1972 retirement.</p>
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3. Identification Help From Agency's 1938 Conference Photo

A question arises as to Judge Raphael's identification. Thus, it appears, from the decisions in the Board's bound volumes, that Judge Raphael last presided on November 4, 1941, in the case of *New York Merchandise Co.*, 41 NLRB 1078 (6-19-1942), following which trial he issued his Intermediate Report on January 13, 1942. No activity is shown thereafter for him in the Board's bound volumes. (Of course, that could well have been because he joined the war effort in some capacity.)

Nevertheless, the identification of Judge Raphael is confirmed by another source, that being a photograph of the November 15, 1938 Agency conference in Washington, D.C. That photograph is reproduced at page 28 of the Board's publication, *NLRB, The First 50 Years* (photo number 2 on the page), and can be viewed, in its reduced size, at page 17 (photo number 3) of the Board's commemorative publication, *The First Sixty Years*, which can be found on the Board's website. [The Board revised the format of its website in November 2003. At the home page, in the left navigation bar, under the heading for "NLRB Documents," click on "Publications." At the next screen, click on the second item, that being the name of the publication. Choose PDF

in order to see graphics. This opens a Contents page which includes Chapter 2. Click on the link to Pages 15 to 20. When that opens, scroll down to photograph number 3 which is at the bottom of page 17.]

Although the reproduction of the panoramic 1938 photo (some 160 attendees in the photo) appearing on the Board's website is rather small, a copy of the much larger original brings the faces into closer focus. With that closer focus, and an identification chart and numbered silhouette map generously furnished by Judge Ralph Winkler (EOD 4-3-1950; an attendee at the 1938 conference; see photo below) in 2003 to Chief Judge Giannasi, a strong resemblance can be seen between the person named there (number 122) as Martin Raphael and the man (number 34) in this 1942 photograph who has been identified as Martin Raphael. Accordingly, for this paper that identification is found to be well supported.

To assist in understanding the description of the 1938 photograph, a copy is reproduced here, but divided into three panels in order to give a somewhat larger image. (Chief Judge Giannasi graciously loaned the Division's copy of the photo for this paper. David Parker, now the Board's Deputy Executive Secretary, but then the Director of the Division of Information, also played the important role of securing a commercial reproduction of the Division's copy of the panoramic picture to use for this project. His interest and action are greatly appreciated.)

November 15, 1938 Conference Photo — Left Panel



And now for the second of the three panels, the middle panel:

November 15, 1938 Conference Photo — Middle Panel

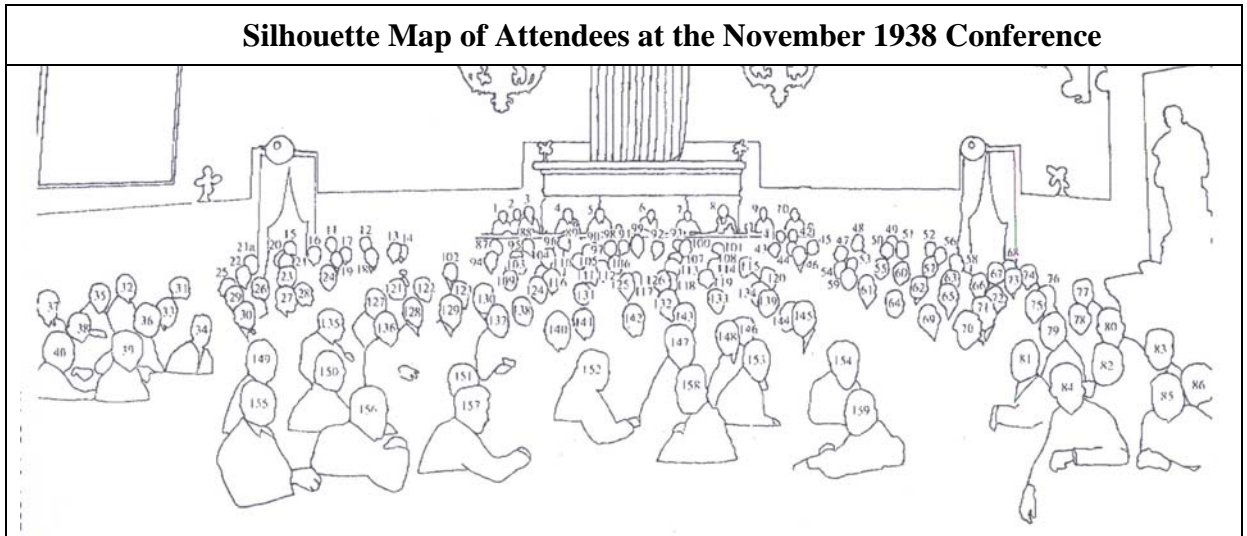


And here, the third of the three panels, the right panel:

November 15, 1938 Conference Photo — Right Panel



A reproduced copy of the numbered silhouette map of the attendees follows (with some of the numbered faces in highlighted colors, as added by the author here):



Finally, a reproduced copy of the roster of attendees in the 1938 photograph (with some of the names of judges highlighted, as added by the author here):

Identification Roster of Attendees in 1938 Photograph
--

1. Thomas Emerson	54. William Seagle	113. Unidentified
2. Unidentified	55. Alvin Rockwell	114. Warren Woods
3. Robert Watts	56. Frank Bowen	115. Edwin Elliott
4. Charles Fahy	57. Daniel Harrington	116. Wallace Cohen
5. Donald Wakefield Smith	62. Ralph Winkler	117. Arnold Cutler
6. J. Warren Madden	63. Unidentified	118. Malcolm Mason
7. Edwin S. Smith	64. Alan Perl	119. Louis Libbin
8. Nathan Witt	65. Howard Friedman	120. Unidentified
9. Beatrice Stern	66. Bernard Alpert	121. Unidentified
10. George Pratt	67. Lewis Gill	122. Martin Raphael
11. William Ringer	68. Unidentified	123. A. Bruce Hunt
12. Earl Bellman	69. Joseph Robinson	124. Robert Kleeb
13. Towne Nylander	70. Margaret Farmer	125. David McCalmont
14. Unidentified	71. Robert Burstein	126. Marcel Mallet-Prevost
15. Gerhard Van Arkel	72. Richard Salant	127. Howard Lebaron
16. David Persinger	73. Unidentified	128. Warren Sharfman
17. William Walsh	74. Frank Bloom	129. Lawrence Broadwin
18. Fred Mett	75. Edna Loeb (Friedman)	130. Henry Lehman
19. Samuel Zack	76. Lester Asher	131. Mary Schleifer
20. Unidentified	77. Harry Brown	132. Abraham Kaminstein
21. Unidentified	78. David Rein	133. Selma Rice (Rein)
21a. David Saposs	79. Jack Kaufman	134. Lyle Cooper
22. Katherine Ellickson	80. R. Marsden	135. Bernard Freund
23. Elizabeth Bliss	81. William Stix	136. Victor Pascal
24. Paul Nachtman	82. David Shaw	137. Gustaf Erickson
25. Miriam Camp	83. John Lindsay	138. Alan Rosenberg
26. Unidentified	84. Ray Compion	139. Russel Packard
27. Richard Perkins	85. Guy Farmer	140. Unidentified
28. Sara Gamm	86. Philip Phillips	141. Fannie Boyls
29. Eugene Thorrons	87. Unidentified	142. Bliss Daffan
30. Charles Whittemore	88. Unidentified	143. Frank Paone
31. Charles Persons	89. Unidentified	144. Sylvester Garrett
32. Thomas Wilson	90. Unidentified	145. George Rose
33. Webster Powell	91. George Turitz	146. Carol Agger (Forias)
34. Anne Freeling (Schlezinger)	92. Francis Hoague	147. Herbert Glaser
35. Henry Kent	93. Solaman Lippman	148. Robert Cowdrill
36. George Koplow	94. Charles Logan	149. Owsley Vose
37. Charles Douds	95. Unidentified	150. Walter Nolte
38. Jack Krug	96. Unidentified	151. Unidentified
39. Joseph Hoskins	97. James Paradise	152. Margaret Holmes
40. Jack Dorsey	98. Tilford Dudley	153. Wesley McCune
41. Alice Nelson	99. Edward Grandison Smith	154. Jack Karro
42. Virginia Leary	100. Horace Ruckel	155. Harry Cooper
43. William Aicher	101. Harold Cranefield	156. Martin Kurasch
44. Unidentified	102. Henry Winters	157. Andrew Toth
45. Jacob Blum	103. Nathaniel Clark	158. Harry Roberts
46. Edward Schneider	104. David Morse	159. Sol Davison
47. Alice Rosseler	105. Charles Graham	
48. Bennett Schauffler	106. Aaron Warner	
49. Harry Jones	107. Unidentified	
50. W. G. Stewart Sherman	108. Ida Klaus	
51. Robert Rissman	109. Paul Kuelthau	
52. Garnett Patterson	110. A. Howard Myers	
53. Elinore Herrick	111. Drexel Sprecher	
(Tentative Identification)	112. Leonard Bjork	




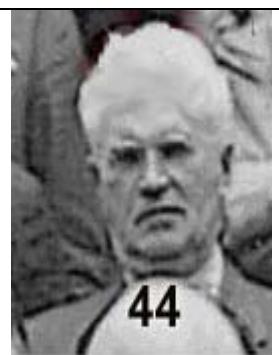
4. Table of Comparison Photo-Images

Another identification from the 1942 photo now seems possible using a full-sized copy of the original of the photo of the Agency’s November 1938 conference. Thus, a close resemblance can be observed between person number 33 (Webster Powell per the ID list furnished by Judge Ralph Winkler) in the 1938 photo and the judge in position number 12 of the 1942 photo. Although the hair appears a bit darker from 4 years earlier, the eyeglass frames appear to be the same style. And perhaps of most significance, the mustache appears to be of the same shape and style. Accordingly, for this paper the conclusion is made that the person standing in position number 12 in the 1942 photo appears to be Judge Webster Powell.

As with Judge Webster Powell, a further identification is possible. Look at the top left of the numbered 1942 photo, above. At the very back, on the left side, number 40 — seemingly barely visible. Yet in the 1938 photo a possible resemblance can be seen between the man above, number 40 in the 1942 numbered photo, and a man (number 30 on the identification list) seen on the far left side of the panoramic photo of 1938. A zoom-in view of the 1938 photo’s left side removes virtually all doubt — the two men are one and the same person. Thus, from this matching of 1942’s number 40 with 1938’s number 30 (named on the identification list for nearly all the 160 attendees in the 1938 photo), we learn that our 1942’s number 40, the man way up in the back, is Judge Charles W. Whittemore. Attendee and future Judge Ralph Winkler (EOD April 3, 1950) appears on the silhouette map (right side, center) and identification sheet at position number 62 in the 1938 photo.

Incorporating the foregoing three comparisons, plus Judge Winkler, and #44 from the 1942 photo, into a table, we have the following display:

<p>Martin Raphael</p> <p>From the 1938 photo, #122 on the ID list of attendees, and per the location map for the attendees.</p>			<p>#34 in the 1942 photo. The resemblance is strong, confirming the identification of #34 here as the #122 in the 1938 photo, identified there as Martin Raphael.</p> <p>EOD January 1, 1938.</p>
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<p>Webster Powell</p> <p>From the 1938 photo, #33 on the ID list of attendees, and per the location map for the attendees.</p>			<p>#12 in the 1942 photo. A strong resemblance. The hair is not as dark, but the hairline is very similar, as are the glasses and, especially, the mustache. This is Judge Powell. EOD April 1, 1938.</p>
<p>Charles W. Whittemore</p> <p>From the 1938 photo, #30 on the ID list of attendees, and per the location map for the attendees.</p>			<p>#40 in the 1942 photo. The features are very similar. This is deemed to be the same person as 1938's #30 — Judge Charles W. Whittemore. EOD August 1, 1938.</p>
<p>Ralph Winkler</p> <p>From the 1938 photo, #62 on the ID list of attendees, and per the silhouette map for the attendees. EOD April 3, 1950.</p> <p>(Judge Winkler's son, Peter Winkler, has confirmed this identification.)</p>			<p>Research discussions for this paper indicate that #44 from the 1942 photo may well be Judge James J. Fitzpatrick (EOD 12-1-1937), the father of Judge James M. Fitzpatrick (EOD 6-7-1968).</p>

5. The Nonjudge Attendees in the May 1942 Photo

The possibility that one of the 1942 group was a per diem judge is so remote as to be virtually nonexistent. Although by policy the Board could appoint a per diem judge in an emergency shortage, in fact, from June 1940 through May 1942, the Board's bound volumes appear to disclose only one case (in March 1942) in which an apparent per diem judge presided at a ULP trial (and no apparent per diem judge for a representation case hearing). Thus, the conclusion here is that none of the 16 was a per diem judge. Also, it is possible that the other 16 were either, like Van Arkel, members of the Board's legal section (with the General Counsel) or Board's legal staff (the "Review Section" in those days), or both. In the early years, the names of those from the Review

Section would appear on the reported Board decisions followed by the designation, “of counsel to the Board.”

Originally the thought at this point was that the probable explanation for the additional 16 persons in attendance at the May 1942 Trial Examiners Conference is that an invitation was extended to the Regional Offices to send some of their personnel who frequently were appointed by the Chief Judge as “trial examiners” to hear representation cases. Indeed, as described earlier, starting about June 1, 1940, personnel in the Regional Offices began handling the routine representation cases. This progressed so that eventually they were presiding over virtually all such hearings. 5 *NLRB Annual Report* 123; 6 *NLRB Annual Report* 9; 7 *NLRB Annual Report* 14.

In his March 1969 oral history interview, then Chief Trial Examiner Bokat recalls that in the late 1930s the Division had recommended to the Board that, as the judges were so busy presiding over complaint cases, the Board authorize Regional Office personnel to handle most of the representation cases. As an Assistant Chief Trial Examiner, Judge Bokat went to various Regional Offices and conducted training conferences on “how to conduct the hearing, what to get in the record. And we gradually over the years divorced ourselves where we did not hear any [initial] representation cases at all.” *Bokat* at 61-64. By comparing the names of those regional office personnel, in the reported representation decisions, with the two managing officials named in the lists of the Regional Offices appearing in the Board's Annual Reports during these years, we see that they usually were the Regional Attorneys. Thus, it was thought, this easily would account for all or most of the extra 16 attendees.

However, Chief Judge Giannasi has submitted this compelling observation:

In my opinion, the extra non-trial examiners in the picture would most likely be D.C.-based Board or General Counsel staff since the conference was held in Annapolis, Maryland, near Washington. It was War time and plane travel was not as prevalent as it is today. Nor would it be likely that the budget would permit travel to D.C. for a lot of regional office personnel.

That observation is persuasive, and it is likely that Assistant General Counsel Van Arkel was just one of several from the Washington staff outside the Division. Thus, aside from possibly a few persons attending from nearby Regional Offices, the conclusion here is that set forth in Judge Giannasi's quoted opinion.

This note about the number of judges in attendance at this conference. Unlike in more recent times, it appears that in the early years (or at least for this

1942 conference), the Division did not block out a week for no trials in order to facilitate attendance at the May 22-24, 1942 Trial Examiners Conference. As a 1942 calendar reflects, the only weekday for the conference was Friday, May 22, with the other 2 days of the conference falling on a Saturday and a Sunday.

Even with the mostly weekend schedule, it is quite possible that a few of the judges either arrived a bit late or (especially if the Sunday portion was limited to Sunday afternoon) had to leave a bit early. For example, Judge Thomas S. Wilson could not have made it at all, for he was presiding at a representation hearing on that Friday and Saturday, May 22-23 — all the way out in Globe, Arizona. 44 NLRB 1160. Judge Charles E. Persons had to preside the following Monday, May 25,..... in Jacksonville, Florida. 42 NLRB 272. Perhaps he was able to take a night train to get there in time. Notwithstanding the possibility of a few late arrivals or early departures, if the group photo, as seems likely, was taken that Saturday, May 23, then anyone arriving late on Friday or departing early on Sunday probably would still be in the photo.

Finally, as we leave the group photo of May 1942 (in about a dozen pages, we reach the reconstructed roster as of May 1942), we should pause. The group photo of May 1942 is the last one the Division has until 1985 — over 40 years later! Those in the May 1942 really are the last photographic image we have of the judges, and a few others from elsewhere in the Agency, from the early years.

6. Methodology

As just noted in the introduction to this section on staffing numbers, Prof. Gross tells us that, as of June 30, 1937, the Division had 11 regular-staff judges, and that such number had grown to 24 by the close of the fiscal year ending June 30, 1938. Also, as we saw, Chief Judge Pratt testified before Congress that at his mid-November 1937 arrival in Washington there (already) were 24 regular-staff judges. The Division's staff obviously had been increased to handle the increased workload following the Supreme Court's April 1937 decision upholding the constitutionality of the Act. Thus, the Board notes its vastly increased caseload following that decision (plural, actually) at 3 *NLRB Annual Report* 1. Moreover, the impact is seen in a huge jump in the Board's budget from some \$791,000 for FY 1937, 2 *NLRB Annual Report* 168, to nearly \$2,500,000 for FY 1938, 3 *NLRB Annual Report* 283.

Would it be possible for us to reconstruct the rosters for June 1937 (11 regular-staff judges) and June 1938 (24 regular-staff judges)? To do so at this point, with the earliest roster of judges being the one for January 1957, we must chiefly rely on the bound volumes containing the published decisions of the National Labor Relations Board and the names disclosed by searching those published decisions in the Board's bound volumes. That methodology produces

the following reconstructed rosters (probably not perfect, but hopefully close) for June 30, 1937, June 30, 1938, August 1, 1938, February 1940, July 1940, and May 1942.

7. Reconstructed Roster for June 1937

Short of discovering an early-day roster of the judges, this reconstructed list takes us back as close to the beginning as we are likely to get. In short, this roster of the original 11, as the list shall be called here, names the most likely members of the very first group of NLRB regular-staff judges. Clearly the 11 were not hired on the same date, for the dates of their first ULP trials or representation hearings vary substantially. Although these 11 judges are selected as the most likely judges to have constituted the list of 11, it cannot be determined exactly when each became regular staff. Thus, as with Judge Ringer and many others who came a bit later, some or all of the 11 presumably served briefly as per diem judges. Even so, the EOD date assigned is that for the first day of the month of the first reported case at which the judge presided. Such date is assigned as a compromise between what often was a substantially earlier date after which the judge trained, or a later date after the judge served on a per diem basis.

The urge is strong to make an exception in the deeming process regarding the first day of the first month where the actual beginning months of one or more judges parallel that of a judge for whom there is a Division EOD date some months later. Two good examples of this involve Judge Ringer, mentioned in the next paragraph, and Judge Bokat (both future chief judges). Both are included on the reconstructed roster for June 1938. As we see in a moment, several judges started within a couple of weeks or so of Judge Ringer in late May 1937, yet, in this paper, some of them receive deemed EOD dates matching their first month, while Judge Ringer is stuck with his Division EOD date of 10-1-1937. This seems unfair, but it is done out of necessity. As noted above, Prof. Gross reports that as of June 30, 1937, there were only 11 regular-staff judges, while, as we shall see, there were 19 judges ostensibly eligible for those 11 slots on the list (20 judges if Judge Ringer were included).

Similarly, when we come to the reconstructed roster for June 1938, Judge Mapes Davidson, for whom no Division EOD date is available, receives a deemed EOD date of October 1, 1937, the month of his first reported trial, while Judge Bokat, who also started in October 1937 (on a per diem basis as then Chief Judge Bokat reports, *Bokat* at 7), receives his Division EOD date of February 1, 1938, that appears on the January 10, 1957 roster — an EOD date he confirms for status as one of the regular-staff members of the Judges Corps. *Bokat* at 9.

It must be said here that, were it not for Prof. Gross' report that there were 11 regular-staff judges as of the June 30 close of FY 1937, the list here

would have at least a half dozen more judges. How can the following list of 19 eligibles be reduced to 11? Reflecting the difficulty presented, the name of Judge Ringer, a future Chief Judge, is not included. Yet we know from the January 1957 roster that Judge Ringer started May 24, 1937, on a per diem basis, converting to regular-staff on October 1, 1937. [Actually, the roster has a slight error in placing the date as May 27, for the reported cases show that Judge Ringer started his (per diem) presiding 3 days earlier, on May 24, 1937. See 3 NLRB 332.] How many of the others, starting in the May-June 1937 timeframe, worked for 2 or 3 months, or more, on a per diem basis? (Perhaps they were hired, on a per diem basis, in anticipation of an increased budget for FY 1938 after the April 1937 Supreme Court decision upholding the constitutionality of the Act.) Yet, if all those with starting trial dates of May or June 1937 are omitted, only 4 of the 19 would be on the list. In order to meet the number of 11, some discretion must be exercised. Thus, names of those are deleted if they did not thereafter show regular published trials at least until the June 1938 roster.

Also, in reconstructing the list of the original 11, note should be made of the possibility that one or two of those who presided at a few of the trials or hearings in the year and a half leading up to June 1937 in fact were regular-staff judges who simply left the Division and possibly the Agency after their brief service. Actually, it seems unlikely that any were regular-staff judges. Numbering no more than about 10 or 12, these trial examiners usually show no more than a couple of reported cases (although a couple of them presided five or six times or so). Whether they were per diem judges or persons in other positions in the Agency called upon to preside is not presently ascertainable.

Finally, a problem. Recall Judge Pratt's Congressional testimony (in December 1939 or January 1940) that when he arrived in Washington in mid-November 1937 to be the Chief Judge there were 24 regular-staff judges and some 40 to 50 "men on a per diem basis." *Reshaping* at 11 (cited earlier). Recall also the report by Prof. Gross that the number of regular-staff judges jumped from 11 to 24 between June 1937 and June 1938 (*Making* at 239 fn. 29, citing data supplied by the Board to the Smith Committee hearing). Notwithstanding the foregoing, some 30 years later Judge Pratt recalls different numbers in his oral history interview, taken by one of Prof. Gross' graduate student researchers on March 18, 1970 (interview cited in *Making* at 159 fn. 42). Judge Pratt states there that when he became the Chief Judge that November 1937 there were only 3 regular-staff judges (Frank Bloom, E. G. Smith, and Charles Wood) and some 60 persons on the list of those available for assignment as per diem trial examiners. *Pratt* at 121-122. By February 1, 1938, he had removed 20 names from the per diem list and added another 40 names (for a total of 80 names on the per diem list). *Pratt* at 122-123.

Although this paper, just above, mentions Judge Pratt's different numbers as supplied in the March 1970 oral history interview, the choice here is the same as that taken by Prof. Gross, in his books, of relying on the data given to Congress in 1939-1940 by Judge Pratt and the Agency. (But this is not an easy choice, for from the aspect of assigning deemed EOD dates, Judge Pratt's 1970 statement, of mostly per diem judges until August 1, 1938, fits the evidence better than do the numbers reported by Prof. Gross.)

On the foregoing basis, we now have the following deemed list of the 19 candidates for inclusion in the original 11 positions of regular-staff NLRB judges. Their "potential" EOD date is based on the month when they first presided at a reported NLRB proceeding. Note that not 1 of the 19 names appears on the Division's roster of January 10, 1957 (the first available listing of the judges). By 1957, all had left the Division, even the Agency, for any of various reasons, including death as with (per the LOS) the January 15, 1953 passing of Judge Henry J. Kent.

	<u>Name</u>	<u>Potential EOD Date</u>
1.	Batten, James C.	5-1-1937
2.	Bloom, Frank	5-1-1937
3.	Delaney, Emmett P.	1-1-1937
4.	Dudley, Tilford	6-1-1937
5.	Ewell, James G.	6-1-1937
6.	Gates, Robert M.	1-1-1936
7.	Kent, Henry J.	6-1-1937
8.	Korey, Harold R.	6-1-1937
9.	Lindsay, John T.	5-1-1937
10.	McNally, Patrick H.	6-1-1937
11.	O'Brien, Clifford D.	5-1-1937
12.	Paradise, James C.	6-1-1937
13.	Persons, Charles E.	6-1-1937
14.	Rockwell, Alvin J.	6-1-1937
15.	Seagle, William	4-1-1937
16.	Smith, Edward Grandison	5-1-1937
17.	Webb, William P.	6-1-1937
18.	Wilbur, Walter	12-1-1935
19.	Wood, Charles A.	12-1-1935

Although Judge Emmett Delaney presided at a handful of trials in May–June 1936, and for several months into 1937, he also served as the Board's trial attorney in at least two cases during 1936 (5 NLRB 601 and 2 NLRB 626). In those early days, before the APA (Administrative Procedure Act) and the Taft-Hartley Act, the Board enjoyed more flexibility in assigning personnel to serve

temporarily as trial examiners. Accordingly, Judge Delaney's deemed EOD date is January 1, 1937.

The Board itself tells us that Judge Delaney "resigned from the staff of the Board prior to the" September 2, 1937 resumption in *Condenser Corp. of America*, 22 NLRB 347, 354 (1940). The reported decisions show that Judge Delaney's last trials were in May 1937, and that he worked on his decisions ("Intermediate Reports," or IRs) at least until early June. One example is seen at 3 NLRB 535. A bigger case, although tried in April 1937, could have required more time to write, thus keeping him busy until the end of June. The Board, 4 NLRB 844, does not give the date of the IR, and in those days copies of IRs rarely were attached to Board decisions. Although Judge Delaney possibly could be included on the list of original judges, a more logical choice seems to be Tilford E. Dudley. True, his first reported trials are not until June 1937, but he served thereafter into the 1940s. Judge Dudley is included on that basis.

Judge Robert M. Gates appears to be the same Robert Gates mentioned by Prof. Gross as appointed about November 1937 to be a "special examiner" to assist in investigating certain activities at NLRB Region 21 (Los Angeles), and in June 1938 Special Examiner Gates went to Los Angeles for that purpose. *Reshaping* at 119-127, 230. Judge Gates could have left the Division to assist the Board's Secretary. (His reported cases show a gap between late 1937 and late 1941.) And then in early 1941, as Prof. Gross describes in *Reshaping* at 230, Robert Gates became an assistant director of the new Administrative Division. Later in 1941, however, and into 1942, we find that Judge Robert M. Gates is back presiding for a few more cases before he apparently leaves to join the war effort in some capacity. His cases with the Division pick up again with an October 1945 trial. Unfortunately, Judge Gates soon becomes ill. His last trial, in July 1946, is reported at 74 NLRB 1597 (1947). Following the close of the trial that July 15, 1946, Judge Gates resigns because of poor health. These matters are so reported by Judge Robert N. Denham (the soon-to-be-General Counsel after Taft-Hartley became effective) who was assigned to write the Intermediate Report in the case. 74 NLRB 1597 at 1605.

The last strike comes down to a choice of either Charles E. Persons or Alvin J. Rockwell (a future General Counsel, January 1944 to September 1945). Although they both started presiding in June 1937, Judge Rockwell served only about 1 year. He apparently then transferred to some other position in the Agency, and later was appointed to the position of General Counsel. (In a September 1938 trial, one of Region 2's trial attorneys was an "Alvin J. Rockwell." *Paramount Broadcasting*, 13 NLRB 59 (1939).) By contrast, Judge Persons served well into the 1940s. On the basis of that longer service in the Division, Judge Persons, rather than Judge Rockwell, is included among the original 11 regular-staff judges as of June 30, 1937.

With the foregoing observations made, and exercising the discretion of not including those whose records were not thereafter sufficiently active to indicate the status of regular staff (and with Judge Ringer not included because his Division EOD date is 10-1-1937), the following constitutes the reconstructed June 30, 1937 list of the original 11 regular-staff judges:

	<u>Name</u>	<u>Deemed EOD Date</u>
1.	Batten, James C.	5-1-1937
2.	Bloom, Frank	5-1-1937
3.	Dudley, Tilford E.	6-1-1937
4.	Gates, Robert M.	1-1-1936
5.	Kent, Henry J.	6-1-1937
6.	Paradise, James C.	6-1-1937
7.	Persons, Charles E.	6-1-1937
8.	Seagle, William	4-1-1937
9.	Smith, Edward Grandison	5-1-1937
10.	Wilbur, Walter	12-1-1935
11.	Wood, Charles A.	12-1-1935

8. Reconstructed Roster for June 1938

Recall now from Prof. Gross, *Making* at 239 fn. 29 (citing evidence presented at the Smith Committee hearings in 1939-1940), that as of the close of the Board's third fiscal year on June 30, 1938, the Division's regular staff judges had increased to 24. Recall also, from 3 *NLRB Annual Report* at 244, the Board's historic decision that as of August 1, 1938, it would no longer employ (except in emergencies) per diem trial examiners, but instead would then begin a policy of employing only regular staff judges to preside at unfair labor practice trials. Let us therefore reconstruct, as best we can, the roster as of June 30, 1938. In the list below, all dates are deemed, except an "e" preceding the EOD date indicates that the EOD date is specified on one of the Division's rosters or was determined by Division staff in searching Division records.

As with the reconstructed list for June 1937, were it not for the data cited by Prof. Gross showing that there were 24 judges as of June 30, 1938, several additional names would be included here because of their trial dates. To reach the 24 specified, some who ostensibly qualified (such as Judges Theodore R. Bland, William H. Griffin, Albert L. Lohm, Joseph L. Maguire, and Horace A. Ruckel, plus others) had to be excluded. As we see in just a moment, however, some will appear on the August 1, 1938 roster. Admittedly, whether some of the judges should appear on this list or the next list involves a certain amount of arbitrary selection, for in fact, aside from the limitation

imposed by the number 24, some of the judges deferred to the next list have as much claim to appear on this list as some of those included.

Judge Howard Myers would have been included except (similar to Judge Ringer's situation) his established Division EOD date (August 1, 1938) comes later. Judge Charles A. Wood is not included. Although he presided at two hearings later in 1938, those were his last. Largely on that basis, and in order to limit the names to 24, Judge Wood is not included here. As with Judge Ringer, Judge John T. Lindsay began presiding in May 1937. In the absence of a better date, the EOD date of October 1, 1937, carried by Judge Ringer, is adopted here as a reasonable date to deem here for Judge Lindsay.

We now have the following as the reconstructed roster of June 30, 1938, with Judge Pratt as the Chief Judge:

	<u>Name</u>	<u>Deemed EOD Date</u>
1.	Batten, James C.	5-1-1937
2.	Bellman, Earl S.	e-2-1-38
3.	Bloom, Frank	5-1-1937
4.	Bokat, George	e-2-1-1938
5.	Davidson, Mapes	10-1-1937
6.	Denham, Robert N.	3-1-1938
7.	Dudley, Tilford	6-1-1937
8.	Erickson, Gustaf B.	3-1-1938
9.	Fitzpatrick, James J.	12-1-1937
10.	Jaffee, Samuel H.	12-1-1937
11.	Kennedy, Thomas H.	10-1-1937
12.	Kent, Henry J.	6-1-1937
13.	Lindsay, John T.	10-1-1937
14.	Paradise, James C.	6-1-1937
15.	Persons, Charles E.	6-1-1937
16.	Powell, Webster	4-1-1938
17.	Pratt, George O.	11-15-1937
18.	Raphael, Martin	1-1-1938
19.	Ringer, William R.	e-10-1-1937
20.	Rockwell, Alvin J.	9-1-1937
21.	Seagle, William	4-1-1937
22.	Smith, Edward Grandison	5-1-1937
23.	Ward, Peter F.	2-1-1938
24.	Wilbur, Walter	12-1-1935

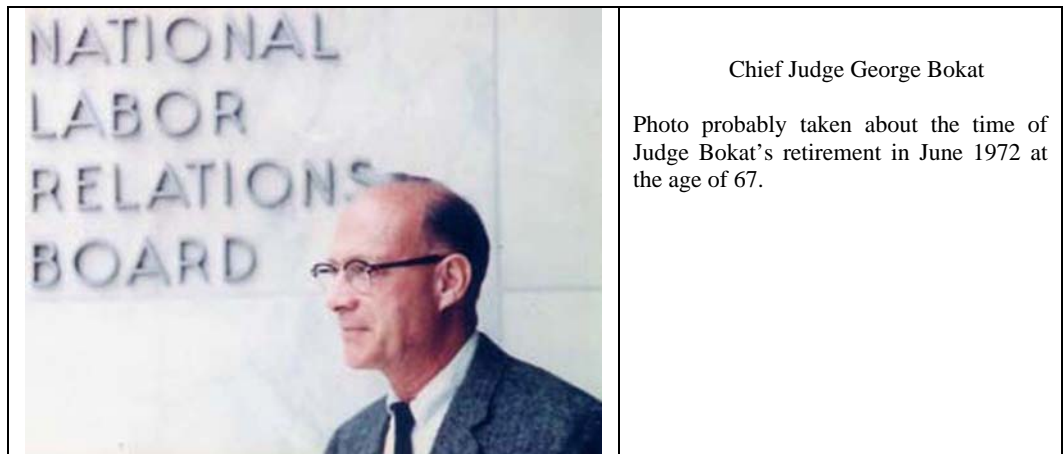
A 1927 graduate from New York University Law School, **Bokat** at 1, George Bokat (born November 15, 1904, in New York) practiced law in New

York City, becoming a successful trial lawyer, for several years. About the time he had a big case representing workers, and became interested in the rights of workers, Bokát saw a note in the *New York Times* that the Act had been held constitutional and that Chairman J. Warren Madden said that the Agency needed employees. *Bokat* at 1-4. Bokát contacted the Board, was interviewed by General Counsel Charles Fahy and Associate General Counsel Robert Watts and was offered a position as, apparently, the Regional Attorney at Kansas City (Region 17), working for Regional Director George Pratt. *Bokat* at 5, 8. However, the pay was substantially less than Bokát was earning and he declined. He was asked to consider the matter overnight, a request he agreed to.

After leaving the interview, but apparently still at the Board's offices, Bokát met an acquaintance of his, James C. Paradise. Bokát learned that Paradise was working as a Trial Examiner and, at Paradise's suggestion, they went to see the Secretary, Benedict Wolf, who, it turned out, was an undergraduate classmate of Bokát's. They marched in for an interview with the Board, and 2 days later, on October 12, 1937, Judge Bokát, admittedly knowing nothing about the Act, was presiding (as a per diem judge) in upstate New York at his first unfair labor practice trial. *Bokat* at 3-7; *Making* at 240-241.

As we saw earlier in the listing of the Chief Judges, Judge Bokát ranks third, behind Chief Judges William Ringer and Melvin Welles, for having served (for over 10 years) the longest in that position. Moreover, of all the judges hired during the 1930s, Judge Bokát's nearly 35-year term of service (ending with the June 30, 1972 completion of his service as Chief Judge) was one of the two longest terms served by that group. (As we see later in the Retirements section, Judge Thomas S. Wilson was the other.)

A son of Judge Bokát, Dr. Robert Bokát of Hilton Head Island, SC, sends us this picture of his father standing under the Agency's nameplate at the Board's office building. Dr. Bokát suspects that the photo was taken about the time of Judge Bokát's retirement in June 1972 at the age of 67.



Both of Judge Bokats's sons (Robert Bokats, mentioned above, and Stephen Bokats of Chevy Chase, Maryland), have inspected the (emailed) May 1942 photo with, and without, the red ID numbers, shown earlier. Their opinions range from a "maybe" to a positive that attendee #27 in the 1942 photo is their father. In the box that follows, zoom-in copies are made of #27 from the May 1942 group photo, one with the red ID numbers, and one without. As can be seen, as the photo is enlarged, distortions interfere with clarity, and thus make a positive identification more difficult.



Stephen Bokats reports that his father died on November 15, 1973 (Judge Bokats's birthday), at the age of 69. Judge Bokats is buried at National Memorial Park, Alexandria, Virginia.

9. Reconstructed Roster for August 1, 1938

Turn now to the task of reconstructing the roster of regular-staff judges based on the Board's historic decision (see 3 *NLRB Annual Report* at 244) that as of August 1, 1938, it would no longer employ per diem trial examiners (except when no regular staff judges were available), but instead would then begin a policy of employing only regular staff judges to preside at unfair labor practice trials. In the list below, all dates are deemed, except an "e" preceding the EOD date indicates that the EOD date is specified on one of the Division

rosters or was determined by Division staff in searching Division records. As a practical matter, with the exception of Judge Walter Wilbur (who apparently left the Division in August 1938 and returned, per the reported decisions, in April 1941), we are simply adding to the list of 24 that appears for the list of June 30, 1938, above. The additional names expand this August 1, 1938 list to a total of 35 (with Judge Pratt the Chief Judge), as follows:

	<u>Name</u>	<u>Deemed EOD Date</u>
1.	Batten, James C.	5-1-1937
2.	Bellman, Earl S.	e-2-1-1938
3.	Bland, Theodore R.	8-1-1938
4.	Bloom, Frank	5-1-1937
5.	Bokat, George	e-2-1-1938
6.	Davidson, Mapes	10-1-1937
7.	Denham, Robert N.	3-1-1938
8.	Dudley, Tilford	6-1-1937
9.	Erickson, Gustaf B.	3-1-1938
10.	Fitzpatrick, James J.	12-1-1937
11.	Hill, Madison	1-1-1939
12.	Jaffee, Samuel H.	12-1-1937
13.	Kennedy, Thomas H.	10-1-1937
14.	Kent, Henry J.	6-1-1937
15.	Keirnan, Joseph F.	8-1-1938
16.	Lindsay, John T.	10-1-1937
17.	Lohm, Albert L.	8-1-1938
18.	Maguire, Joseph L.	8-1-1938
19.	McNally, Patrick H.	8-1-1938
20.	Myers, Howard	e8-1-1938
21.	Paradise, James C.	6-1-1937
22.	Persons, Charles E.	6-1-1937
23.	Powell, Webster	4-1-1938
24.	Pratt, George O.	11-15-1937
25.	Raphael, Martin	1-1-1938
26.	Ringer, William R.	e-10-1-1937
27.	Ruckel, Horace A.	8-1-1938
28.	Schmidt, Henry W. Jr.	8-1-1938
29.	Seagle, William	4-1-1937
30.	Smith, Edward Grandison	5-1-1937
31.	Ward, Peter F.	2-1-1938
32.	Webb, William P.	8-1-1938
33.	Wenzel, Herbert	8-1-1938
34.	Whittemore, Charles W.	e8-1-1938
35.	Wilson, Thomas S.	e8-1-1938

10. Reconstructed Roster for February 1940

Return now to the 20 judges named by Prof. Gross and listed earlier. With Chief Judge Pratt included, the list would total 21 judges (with 12 names being among the foregoing 24 and 8 being new names), except that, as indicated earlier, Judge Sidney Sugerman is not included here because his tenure is deemed to have been so brief. Thus, the 20 judges named by Prof. Gross are as follows:

James Batten	Earl S. Bellman
Frank Bloom	George Bokat
Mapes Davidson	Tilford Dudley
A. Bruce Hunt	Henry J. Kent
Charles Persons	George O. Pratt
Martin Raphael	Mortimer Riemer
William R. Ringer	Henry Schmidt
William Seagle	Guy Van Schaick
W. P. Webb	Herbert Wenzel
Charles Whittemore	Thomas Wilson

Of the foregoing 20 names, all but Judges Hunt, Riemer, and Van Schaick are names appearing on the August 1, 1938 roster, above. Recall that around February 1940 (18 months following the Board's historic decision to convert to a roster of all regular-staff judges), the regular-staff judges numbered about 39. Besides the 20 above, who were the other 19? Aside from whatever documents were available to Prof. Gross, or produced at the Congressional hearings in 1939 and 1940 (see, generally, *Reshaping* at 160, 183-186, 316 fn. 109), documents not available here, we have the Board's decisions reported in the bound volumes from which to glean, or confirm, the names of the other 19 judges. After reviewing those decisions, we can add the following 19 names (all of which are included on the August 1, 1938 roster with the exception of Judges Barton, Bell, and Hektoen):

William B. Barton	Berdon M. Bell
Robert N. Denham	Gustaf B. Erickson
James J. Fitzpatrick	Josef L. Hektoen
Madison Hill	Samuel H. Jaffee
Thomas H. Kennedy	John T. Lindsay
Albert L. Lohm	Joseph L. Maguire
Patrick H. McNally	Howard Myers
James C. Paradise	Webster Powell
Horace A. Ruckel	Edward Grandison Smith
Peter F. Ward	

Now combining the two groups of 20 and 19, we have as the probable February 1940 roster (with George Pratt as the Chief Judge) the following 39 regular-staff judges:

Barton, William B.	Batten, James C.
Bell, Berdon M.	Bellman, Earl S.
Bloom, Frank	Bokat, George
Davidson, Mapes	Denham, Robert N.
Dudley, Tilford	Erickson, Gustaf B.
Fitzpatrick, James J.	Hektoen, Josef L.
Hill, Madison	Hunt, A. Bruce
Jaffee, Samuel H.	Kennedy, Thomas H.
Kent, Henry J.	Lindsay, John. T.
Lohm, Albert L.	Maguire, Joseph L.
McNally, Patrick H.	Myers, Howard
Paradise, James C.	Persons, Charles E.
Powell, Webster	Pratt, George O.
Raphael, Martin	Riemer, Mortimer
Ringer, William R.	Ruckel, Horace A.
Schmidt, Henry W. Jr.	Seagle, William
Smith, Edward G.	Van Schaick, Guy
Ward, Peter F.	William P. Webb
Wenzel, Herbert	Whittemore, Charles W.
Wilson, Thomas S.	

This note regarding Judge William Seagle. Judge Seagle's trials or hearings in the reported Board decisions conclude with his presiding at a representation case in July 1939 — 15 NLRB 572. He nevertheless is included in the foregoing list because, as Prof. Gross describes in *Reshaping* at 185, Judge Seagle testified (with Prof. Gross summarizing some of that testimony) before the Smith Committee in early 1940. Even though it is possible that Judge Seagle had already left the Division, and the Agency, by the time of his early 1940 testimony before Congress, for the purpose of this paper it is assumed that his departure from the Division did not occur until after his early 1940 testimony. On that basis, Judge Seagle is named on the foregoing roster.

Observe also that Judge Joseph F. Keirnan's name is not carried forward to this list from the August 1, 1938 roster. Judge Keirnan's first reported case (8 NLRB 792) reflects that he presided beginning in December 1937, and his last reported case at which he presided opened in August 1939 (15 NLRB 716). Judge Keirnan (the spelling appearing the most; other times rendered as "Kiernan") had several cases in 1938 and also in 1939. Based on that record, his name was included on the August 1, 1938 roster. The reason for the absence of his name from the current list is the fact, discussed briefly in

the very next section, that the Board experienced “budget reductions” during the fiscal year beginning July 1, 1939. 5 *NLRB AR* 123 (fiscal year ending June 30, 1940). Thus, the most likely explanation for the absence of Judge Keirnan from the reported cases after August 1939 is that he was one of the first judges to be laid off.

11. Reconstructed Roster for July 1940

As already mentioned, within just a few weeks after February 1940, and for whatever reason, 4 of the 39 judges were gone. (Judge Mapes Davidson, for example, resigned on March 17, 1940, in a dispute with the Board about certain alleged Communists in the Agency. *Reshaping* at 205.) With the total down to 35, and the budget axe swinging, 10 more judges were separated (see 5 *NLRB AR* 123), reducing the total judges in the Division to 25. Turning again to the bound volumes of the Board's decisions, one can see the impact of the foregoing departures. Familiar names no longer are seen as presiding at trials, for the loss of the several judges is almost graphically apparent. Notwithstanding the number of 25 judges mentioned at 5 *NLRB AR* 123, the Board's reported decisions show that 28 judges were presiding at trials and hearings both before and well after July 1940. Thus, with George Pratt serving as Chief Judge, the following is presented here as the Division's reconstructed roster of 28 judges at the July 1, 1940 start of the Board's Fiscal Year 1941:

Barton, William B.	Batten, James C.
Bellman, Earl S.	Bloom, Frank
Bokat, George	Denham, Robert N.
Dudley, Tilford	Erickson, Gustaf B.
Fitzpatrick, James J.	Hektoen, Josef L.
Hunt, A. Bruce	Jaffee, Samuel H.
Kennedy, Thomas H.	Kent, Henry
Myers, Howard	Paradise, James C.
Persons, Charles E.	Powell, Webster
Pratt, George O.	Raphael, Martin
Rierner, Mortimer	Ringer, William R.
Ruckel, Horace A.	Smith, Edward Grandison
Ward, Peter F.	William P. Webb
Whittemore, Charles W.	Wilson, Thomas S.

Judge Patrick H. McNally is not included on the foregoing roster because his trials, as reported in the Board's bound volumes, concluded in April 1940 (29 *NLRB* 360). Although he did preside at four trials in 1941 (March, April, June, and September), and in none thereafter, it is assumed here that the 1941 trials were instances where he was called upon when the Division found itself in tight spots and needed per diem help.

12. Reconstructed Roster for May 1942

As mentioned earlier, the ULP caseload for the judges does not show any substantial increase during the previous 22 months since July 1, 1940, and the annual reports for fiscal years 1941 and 1942 do not mention that additional judges had to be hired. Nor did Congress appear to bestow some budget bonus on the Agency. However, as reflected in the Board's bound decisions, a few new arrivals were added to the roster of judges during those 22 months (including one, Judge Robert M. Gates, returning, as mentioned earlier, from assignment elsewhere in the Agency). All have deemed EOD dates except for Judge William Spencer who appears on Division rosters with an EOD date of November 1, 1941. Thus:

Edes, Samuel	10-1-1941	Gates, Robert M.	1-1-1936
Guffey, William F. Jr.	2-1-1942	Maslow, Will	10-1-1941
Mouritsen, Frank A.	10-1-1941	Spencer, William E.	e11-1-1941
Wheaton, Carl C.	5-1-1942		

During the same period, as shown by the cases then and in succeeding months, at least two judges appear to have departed the Division before May 1942: Tilford E. Dudley and James C. Paradise (the latter appears to have switched in early 1942 to a staff position with the New York City office, Region 2). This would yield a net gain of five judges. Actually, because America had entered World War 2 some 6 months earlier, it is possible that some of the judges had begun leaving to join the war effort. Thus, as we saw earlier, Chief Judge George Pratt left the Agency in late July 1942 and reported for duty with the OSS where he served until the end of 1945. As Judge Pratt reports, "We had Labor Board people all over the OSS." *Pratt* at 155. (The persons Judge Pratt names as also being with the OSS were not judges. Of course, there were several other Government agencies that drew from the pool of government employees to help serve in the war effort.) In any event, the available numbers give us the following probable roster (with George Pratt as the Chief Judge) of 33 judges as of May 1942:

	<u>Name</u>	<u>Division EOD Date</u>	<u>Deemed EOD Date</u>
1.	Barton, William B.		8-1-1939
2.	Batten, James C.		5-1-1937
3.	Bellman, Earl S.	2-1-1938	
4.	Bloom, Frank		5-1-1937
5.	Bokat, George	2-1-1938	
6.	Denham, Robert N.		8-1-1938
7.	Edes, Samuel		10-1-1941
8.	Erickson, Gustaf B.		3-1-1938

9.	Fitzpatrick, James J.		12-1-1937
10.	Gates, Robert M.		1-1-1936
11.	Guffey, William F. Jr.		2-1-1942
12.	Hektoen, Josef L.		10-1-1939
13.	Hunt, A. Bruce	3-18-1939	
14.	Jaffee, Samuel H.		12-1-1937
15.	Kent, Henry J.		6-1-1937
16.	Maslow, Will		10-1-1941
17.	Mouritsen, Frank A.		10-1-1941
18.	Myers, Howard	8-1-1938	
19.	Persons, Charles E.		6-1-1937
20.	Powell, Webster		4-1-1938
21.	Pratt, George O.	11-15-1937	
22.	Raphael, Martin*		1-1-1938
23.	Riemer, Mortimer		2-1-1940
24.	Ringer, William R.	10-1-1937	
25.	Ruckel, Horace A.		8-1-1938
26.	Smith, Edward Grandison		5-1-1937
27.	Spencer, William E.	11-1-1941	
28.	Ward, Peter F .		2-1-1938
29.	William. P. Webb		8-1-1938
30.	Wheaton, Carl		5-1-1942
31.	Whittemore, Charles W.	8-1-1938	
32.	Wilbur, Walter		12-1-1935
33.	Wilson, Thomas S.	8-1-1938	

This explanation for the asterisk (*) following the name of Judge Martin Raphael. As was discussed earlier respecting the identities of the judges appearing in the group photo of the May 1942 Judges Conference at Annapolis, Maryland, Judge Raphael's identification as one of those in the photo is well supported despite the fact that his last published activity with the Division was his January 13, 1942 Intermediate Report in the case of *New York Merchandise Co.*, 41 NLRB 1078 (6-19-1942) (for which the closing date of the trial was November 4, 1941). On the strength of his presence for the 1942 group photo, Judge Raphael is included on the reconstructed roster of May 1942 for the simple reason that we do not know all the facts.

For example, Judge Raphael could have just returned from a medical leave in time for the May 1942 conference, and then perhaps have departed to join another federal agency more closely involved with America's war effort. All this is, of course, speculation. The thought here is that if the Division deemed it proper for Judge Raphael to be included in the photo of attendees at the May 1942 conference, this paper, other than adding this note of explanation, should do no less respecting the reconstructed roster for May 1942.

With the reconstructed roster of May 1942, and the group photo of that month, perhaps we close the first chapter on the Division's history. As the Division entered the war years of the early to mid-1940s, new challenges arrived when a good many of the judges left either to serve in the war effort in some capacity, to transfer elsewhere in the Agency, or simply to enter private practice. Even so, the 1940s before Taft-Hartley, and perhaps all the way to about January 1951 when the San Francisco office opened (greatly reducing the travel burden on the judges), may still be considered as part of the Division's overall "early years."

Before we shift gears and move into the Taft-Hartley years, allow ourselves a short detour for a couple of short stories in the next section.

13. Before Covering Rules

Too often we of the modern years tend to think that the existing rules were always there. Not so. For example, what judge would like to preside knowing that a party could wait until after the judge's (adverse) decision to file a motion that the judge be disqualified for an alleged event the party already knew of during the trial? And would any modern judge think that one lawyer could punch out his opponent in open court — and escape punishment? Two interesting vignettes illustrate a couple of historical oversights.

a. The disqualification trial of Judge Thomas S. Wilson

Apparently unique in Board history, the July 16-26, 1947 disqualification trial of Judge Thomas S. Wilson, reported as part of the unfair labor practice case of *Kelco Corp.*, 79 NLRB 759 (1948), remains a stark reminder that judges are wise to be alert and careful about any ex parte conversations with a party's attorney during trial recesses even though the judge considers the topics unrelated to the trial at over which he or she is presiding.

In its exception number 11 to the March 21, 1947 (adverse) decision of Judge Thomas S. Wilson, Respondent Kelco alleged that on January 9, 1947, the second day of the trial at Baltimore, Maryland, and as Judge Wilson and Edward L. Rich Jr., Respondent's lead attorney, were walking on the street at the start of the noon recess, Judge Wilson made a statement reflecting "prejudgment of the issues of the case." The asserted statement was that Judge Wilson had said, "You haven't a chance to win this case, and I am going to see that you don't." *Kelco*, id. Today, of course, delaying that objection until after the judge's decision would fall short of the qualifying requirement in 29 *CFR* § 102.37 that any such objection must be registered **before** the judge files his or her decision. That apparently was not part of the rule in 1947.

On July 2, 1947, the Board directed that a supplemental hearing be conducted before Harold B. Teegarden, "a Trial Examiner of the Securities and

Exchange Commission [at this point footnote 1 states that Judge Teegarden's services were secured in accordance with Section 11 of the Administrative Procedure Act], to determine the issues of fact raised by the Respondent's 11th exception" *Kelco*, id.

At the trial before Judge Teegarden, Attorney Rich testified that, as he and Judge Wilson walked together at the noon recess, they discussed issues in the case. As they came to a street corner, Judge Wilson suddenly asked, "You expect to beat the Board in this case?" To Rich's affirmative reply, Wilson allegedly stated, "You don't have a chance to win this case before the Board, and I'm going to see that you don't." Rich responded that Congress currently was investigating the Board, and industry hoped the result would be fairer decisions from the Board for industry. *Kelco*, 79 NLRB at 803, 810.



Judge Thomas S. Wilson

#32 in the 1938 group photo of the attendees at the November 15, 1938 Agency conference at Washington, DC.

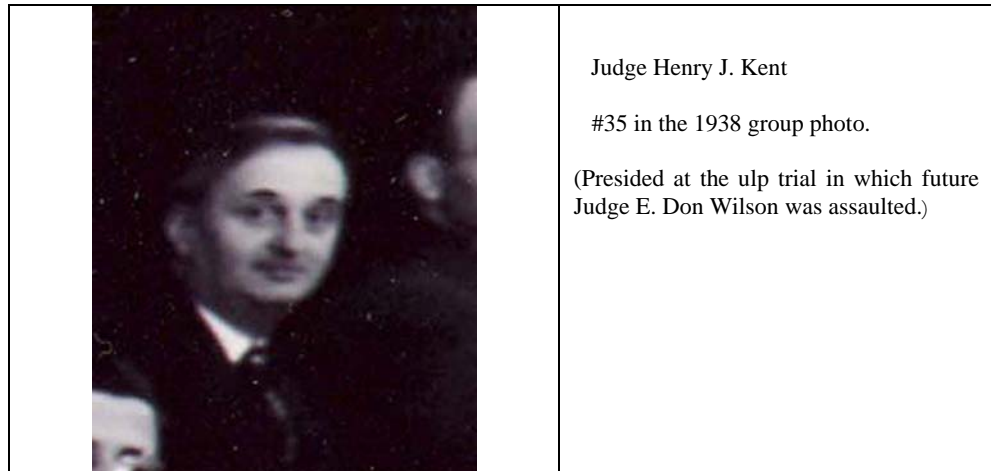
For his part, Judge Wilson (whose testimony Judge Teegarden describes as "direct and straightforward," 79 NLRB at 816) denied the allegation, testifying that he and Attorney Rich had not discussed the case at all, that instead, they had discussed their mutual friends, the Martin family, who lived in Oregon. 79 NLRB at 804.

In his August 26, 1947 Intermediate Report, Judge Teegarden, after summarizing and evaluating the conflicting testimony both as to the nature of the conversation and the distance, and route traveled, and after noting and discussing the delay until after the adverse decision before registering the objection (observing that such delay would be fatal to the exception in both Federal and State court, 79 NLRB at 816-817), essentially credited Judge Wilson. *Kelco* at 819.

On Kelco's appeal to the Board (Judge Wilson filed a brief with the Board), the Board heard oral argument "in which Respondent and counsel for Trial Examiner Wilson participated." 79 NLRB at 760. Adopting Judge Teegarden's findings of fact, the Board found no merit to Kelco's allegation of prejudgment by Judge Wilson. 79 NLRB at 760-761. Kelco's appeal to the Court Circuit involved only the Board's unfair labor practice findings, which the Court enforced, as modified. 193 F.2d 642, 29 LRRM 2328 (4th Cir. 1950).

b. Attorney punches out future NLRB judge — and escapes suspension

The first time the Board suspended an attorney, for misconduct at a Board proceeding, occurred in the case of ***John L. Camp***, 96 NLRB 51 (1951). As there found, in October 1949, in Rankin, Texas, E. Don Wilson (EOD 10-16-1961), then a staff attorney for NLRB Region 16 (Fort Worth), was prosecuting the General Counsel's complaint in an unfair labor practice (ULP) proceeding before Judge Henry J. Kent (EOD 6-1-1937).



The complaint, or ULP, case is reported as ***Ohio Oil Company***, 92 NLRB 1597 (1951). The respondent's lead counsel was John L. Camp — known from his college football days as "Bullet Camp." ***Camp***, 96 NLRB at 71, 73.

By the sixth day of the trial, October 26, 1949, after Respondent had begun its case in defense, the courtroom atmosphere between Wilson and Camp was tense. At one point Camp objected that Wilson was continually trying to impeach the company's witnesses on immaterial matters and repeatedly stating that they were not telling the truth. To this Wilson responded that "They have been lying all the way through." At that Camp punched Wilson in the eye, knocking him to the floor. Before Camp could be restrained by others, and

while Wilson lay flat on his back, Camp again punched him in the eye. *Camp*, id. at 60. Judge Kent excluded Attorney Camp from the balance of the trial. *Camp*, id. at 53-54, 64.

On November 4, 1949, the General Counsel of the Board filed a petition with the Board seeking to disbar Attorney Camp from practice in Board proceedings based on his misconduct of an aggravated nature in the *Ohio Oil Company* case, that being the October 26 physical courtroom assault on E. Don Wilson. *Camp*, id. at 51, 66. Following a delay resulting from Camp's unsuccessful efforts to obtain an order in Federal court enjoining the disciplinary proceeding (see *Camp v. Herzog*, 190 F.2d 605, 27 LRRM 2632 (DC Cir. 1951)), the disciplinary trial commenced before Judge Charles E. Ferguson (EOD 5-14-1948) in Fort Worth, Texas on October 17, 1950, concluding after a total of 7 trial days (some being in Abilene and in Rankin, Texas) in Washington, D.C. on November 10, 1950. *Camp*, id. at 69. On March 8, 1951, Judge Ferguson issued his report to the Board detailing his review of the evidence and stating his factual findings and factual conclusions. *Camp*, 96 NLRB at 52.

After first deciding that it had the "inherent power reasonably to control practice before it," and, further, "that it is empowered to conduct such proceedings as may be necessary to that end," *Camp* at 54, and after adopting Judge Ferguson's findings, *Camp* at 60, the Board then found that attorney Camp's misconduct "was of a serious nature and thus aggravated in character." *Camp* at 62. For its remedial order, the Board suspended Attorney Camp from practicing before the Board or its agents for a period of 2 years. *Camp*, 96 NLRB 64-65. Dissenting in part, Member Reynolds would have limited Camp's punishment to that imposed by Judge Kent — exclusion from the balance of the *Ohio Oil Company* case. Member Houston, specially concurring, would have imposed a 5-year suspension. *John L. Camp*, 96 NLRB 51 at 65-66 (9-10-1951).

Behind in the score at this point, Attorney Camp came back strong in the second round that took place before the Federal district court in Washington, D.C. That court, with Judge Morris presiding, decided that the Board had no inherent power, but did have the power to make rules. Because the Board's rule on the issue provided for exclusion, but not disbarment or suspension, the court vacated the Board's order suspending attorney John L. Camp. *Camp v. Herzog*, 104 F.Supp. 134, 29 LRRM 2709 (D. Ct. DC, April 7, 1952). The Board did not appeal. Camp had won.

Ironically, the court's reported decision reflects that, in the study that preceded the Report of the Attorney General's Committee on Administrative Procedure, the staff monograph covering the Board contained a suggestion that the Board, if it intended to maintain disbarment proceedings (two earlier proceedings to do so had been dismissed after apologies had been issued by the

offending attorneys), should promulgate a rule covering disbarment. *Camp v. Herzog*, 29 LRRM at 2712-2713.

Too late to assuage future Judge E. Don Wilson's probable emotional wounds from the physical assault delivered by "Bullet Camp" that October 1949 day, the Board added subsection (d)(2) to the rule on exclusion, with the amendment, covering suspension and disbarment, effective June 3, 1952. *Robert S. Cahoon*, 106 NLRB 831 fn. 1 (1953). *Cahoon*, a representation case, involves a counterpart provision to one in the rule then applicable to complaint cases. The current rule (covering all proceedings) is found at 29 *CFR* § 102.177 (d) (2).

And so it is that the only "punishment" Attorney John L. Camp received for physically assaulting future Judge E. Don Wilson (EOD 10-16-1961) in an October 1949 NLRB complaint proceeding was his exclusion from the balance of the unfair labor practice trial. With his suspension by the Board vacated, "Bullet Camp" had won the first fully litigated disciplinary suspension imposed by the Board. Thereafter, the Board wisely amended its disciplinary rule to provide for suspension and disbarment.

SOME CHANGES AFTER 1947

1. Introduction

With the increased work following the impact of the 1947 Taft-Hartley amendments, the Division's staff of judges increased from 40 to 51 during the fiscal year ending June 30, 1950. 15 *NLRB Annual Report* at 13. (Perhaps it was this increased workload across the country that persuaded the Board to open a branch office for the judges in San Francisco about January 1951.) But 2 years later the staff of judges was "substantially reduced." 17 *NLRB Annual Report* at 5. Although no number is given there, earlier in the report, at page 1 footnote 1, the Board advises that "a cut in the agency's appropriation for fiscal 1952" resulted in a reduction in force (RIF) exceeding 19 percent. If the judges' share of that RIF was "just" 15 percent, that still would mean that at least 7 of the 51 judges were laid off, or left through attrition, thereby leaving a total of some 44 judges. As it happens, the earliest available Division roster, dated January 10, 1957, has the names of 45 judges. That list is reproduced in a moment.

The 1957 roster is complemented by another fairly early list, called here the LOS — that being the List of Separations. Before we turn to the LOS, however, let us cover a couple of concepts that we face in the coming lists. One concept involves the symbols used here in the process of deeming (approximating) EOD dates. The other concept involves the policy or practice the Division has followed in adjusting certain EOD dates. Because the symbol application process is explained later and in more detail in the Preface to the ABC List, the symbols are only summarized here. The purpose of a brief mention at this point is to assist in avoiding confusion as to their general meaning.

The second matter is the Division's policy or practice of adjusting EOD dates (in some instances, assigning brand new ones) when a judge serves twice in the Division. A general understanding of both concepts will assist in understanding the Division rosters that follow.

2. Applying Symbols and Adjusting EOD Dates

Several judges served twice in the Division. Thus, after transferring elsewhere in the Agency (such as to serve as Chief Counsel for a Board member) leaving for another Federal agency, or resigning and entering private practice, they later returned to the Division. Depending on which option one of these judges took, the Division's practice responded differently, and different symbols are applied in this paper. For those judges who left during World War 2 for a couple of years or so, or who served in some national defense capacity other than the military, it appears that they generally were treated, at least as to the seniority of their original EOD date, as returning military veterans. That is, it appears that on their return to the Division they received their original EOD dates. Evidence of this national defense service, to the extent such is available for this paper, is reflected by notations in the LOS and on the January 10, 1957 roster. Both such documents are reproduced later in this paper. Generally, no symbols are used to mark the EOD dates of military veterans, or for those treated, concerning seniority, as military veterans.

[Chief Judge Giannasi cautions that EOD dates from the early years, as reflected on the roster of January 10, 1957 (reproduced in a few pages), in some instances may give credit when the person, according to information in the files, was serving as an associate attorney before his promotion to the position of Trial Examiner. Respecting those judges who, especially in the early years, left the Division and later returned, although an attempt has been made to document these situations, and the LOS does so as to some, it is possible that others have been missed.]

As explained in more detail in the Preface to the ABC List, the symbols applied in this paper to various EOD dates are as follows:

a. Symbol 1

Of the symbols used, this symbol 1 is applied the most, and most of the judges so designated are among the early judges, especially during the late 1930s. (Readers wanting to see how this is reflected in print may want to take a quick look at the first 50 or so names on the Unified EOD List, the final list in this paper.) The deeming process has to be used because there simply are no surviving rosters dating from the early years. Symbol 1 is used to reflect the approximate original EOD date as determined by the "deeming" process. Certainly for the early years, the "deeming" process generally refers to the process of inspecting the published decisions in the Board's bound volumes.

b. Symbol 2

The symbol 2 marking an EOD date indicates a judge who has an original Division-assigned EOD date, who left the Division to serve elsewhere

in the Agency, and who later returned to the Division. As we see in the examples when this topic is covered in the Preface to the ABC List, the Division adjusts (moves up) the EOD dates of these judges so that such EOD dates reflect only Division seniority. Stated differently, it appears that the Division calculates the Division service before the departure, and then counts back from the return date a time period equal to the prior Division service. The date thereby arrived at becomes the adjusted EOD date.

As the primary focus in this paper is on the original EOD date, all adjusted EOD dates, and all brand new EOD dates (which are given as described below), are preceded by an “e” so as to indicate a later Division-assigned EOD date. An example from this category of adjusted EOD dates is Judge Ralph Winkler.

c. Symbol 3

The symbol 3 marking an EOD date indicates a judge: (1) whose original EOD date is deemed; (2) who left the Division to serve elsewhere in the Agency; and (3) who later returned to the Division. An example of this category is Judge Stephen S. Bean.

d. Symbol 4

If the original EOD date is later modified (such as by a mistake in application of policy or practice) by the Division on a subsequent roster, but then restored on a later roster, and so left restored on the last roster on which the judge’s name appears, then the original EOD date is marked with the symbol ≠ to indicate this category. One judge (perhaps the only one) fitting this category is Judge James H. Hemingway, EOD 2-1-1943≠.

e. Symbol 5

If a judge left the Agency to enter private practice, or for another Federal agency, then on his return he generally has received a new EOD date matching his return date. An example of this category is Judge Robert L. Piper.

f. Symbol 6

For fewer than a handful of judges, the only available record of their EOD date is a copy of the Board's press release, other published announcement, or Division record, that such persons had been appointed as NLRB judges. Sometimes the actual EOD date may predate the announcement by several weeks. The choice made for the List of Judges has been to specify the first day, ordinarily, of the month in which the announcement was published as the deemed EOD date. This small group is assigned its own symbol of ⑥ rather than a ① to reflect its separate category. For example, a Board press release dated October 11, 1979, announced the appointment of C. Dale Stout as an Administrative Law Judge to be stationed in the Washington office. Therefore,

Judge Stout is assigned the deemed EOD date of 10-01-1979, and that deemed date is marked with the symbol ⑥. As Chief Judge Davidson (retired) recalls, Judge Stout died soon after his arrival at the Division.

g. Symbol 7

One judge fits in this category — James T. Rasbury. When data was being gathered early in the research for this paper, among the date gaps completed by the Division office, as described at the beginning of the paper under the section, **Acknowledgements**, was Judge Rasbury's EOD date, transmitted as 2-12-1957. It appears that the year should be "1959," for the publication showing his first trial as a presiding judge had for its opening (and only) date — March 3, 1959, in the case of *Tallapoosa River Electric Cooperative*, 124 NLRB 474 (8-13-1959). It seems quite likely that Judge Rasbury arrived at the Division about 3 weeks or so earlier, on February 12.

When deeming dates for this paper, the policy, as mentioned several times, is to go back no further than the first day of the month in which the first trial was held for that judge. However, that policy is not applicable here because this paper is not deeming a date for Judge Rasbury. This paper is merely correcting what appears to be an error in recording, either on the original Division record, or in copying that EOD year to the Internet transmission of the data. Accordingly, Judge Rasbury's EOD date is shown on the ABC and the EOD lists as a Division assigned date, with the correction of the year indicated by the symbol ∠.

h. Symbol 8

One judge, David Karasick, fits this category which is reserved for judges who left the Division for some other position in the Agency and later returned, but at their return they received brand new EOD dates (as if they had left the Agency for private practice) rather than having their EOD dates adjusted to receive credit for prior service in the Division.

3. List of Separations (LOS)

The 27 names shown below appear on a List of Separations (LOS) during the stated period of 7-1-1949 through 11-15-1961. Unfortunately, while the date of separation is given, the EOD date for the Division is not shown. As other rosters show, some of these judges (Trial Examiners, or "TXs," as the judges were classified then) returned. Those named below separated from the Division for one of two reasons: (1) Resignation (transfers elsewhere in the Agency or to another agency appear to be shown on the LOS, with separations for other reasons, such as private practice, apparently included under the term, "Resignation"); or (2) Death (three judges died).

Although technically resigning from the Division, Judge Bean was appointed by President Eisenhower to the Board for a term beginning 12-1-1955. When Bean's service there ended, he was reinstated as a judge the next day, 8-28-1960.

A staff attorney at Region 2, New York, during much of the 1940s and 1950s (as shown by the reported cases), Judge "Rotolo" (his only name on the original of the LOS) is shown on the LOS as transferring to NLRB Region 24, Puerto Rico, on 9-11-1960. As Paul Harvey would say, see the "rest of the story" later at "Some Mysteries Solved," in the Preface to the ABC list. Judge Rotolo's full name is shown here and on the List of Judges with a deemed EOD date. [The lack of Judge Rotolo's full name, and the many EOD dates missing from the LOS, were among the primary motivations for the preparation of this paper.]

The second column, the EOD column, does not appear on the LOS itself. This column is added here as a result of the research for this paper, with five of the EOD dates being obtained by the research of Anna Marie Wehausen and Carletta Davidson (see Acknowledgments, above). As noted earlier, the symbol numbers and deeming process are summarized above, and described later in more detail in chapter 6, Preface to the ABC List. For the most part, EOD dates not marked by a symbol number were either on rosters or supplied by those checking Division records, and, in general, seem to be the original EOD date. All these names and EOD dates are included in the ABC list. For circumstances already summarized, for a few of the judges, in this paper an "e" precedes a secondary, and later, EOD date, the "e" denoting the Division-assigned EOD date. For these few judges, they left and later returned, and on their return the Division assigned them adjusted or new EOD dates. The primary EOD dates shown on the LOS below for Judges Bean and Piper are deemed. For Judge Silberman, his primary date of 4-27-1953, as shown below, is taken from the 1957 roster as a Division assigned (apparent) original EOD date.

The third column reflects the date of separation as shown in a column of that heading on the LOS.

The fourth column lists the reason given in the LOS itself for the separation. Although the LOS states that Judge Horace Ruckel was "reinstated" on August 2, 1961, that apparently simply means that he returned to the Division (possibly a transfer from another Federal agency, but more likely a return from the private sector). In any event, he was given a new EOD date of August 2, 1961, as shown on the roster dated May 1, 1965.

Although similar to Judge Ruckel's situation, the circumstances of Judge Irving Rogosin are a bit different. The LOS shows that he resigned on 6-9-1953. As he did not return by the November 15, 1961 closing date of the

LOS, there is no reference there to any “reinstatement.” However, on the roster of May 1, 1965, (Division wide; not separated into DC and San Francisco, and only last names listed), one “Rogosin” is shown with an EOD date of “1-14-64” (and such date is shown below with an “e” preceding it, that being the Division assigned EOD date). The next available seniority roster, dated June 30, 1970, while again giving only the last name (and this time separating the names as to the DC and San Francisco offices), gives us a bit more information in the form of the date of birth, that being “3.8.08” for Rogosin, who is listed with the San Francisco judges. He does not appear on the next roster, dated March 1981. In view of the 1908 date of birth for Judge Rogosin, making him almost 56 in January 1964, and in light of the fact that he simply may have retired about the time he reached the age of 65 in 1973 (or he possibly worked until he reached the then mandatory retirement age of 70 in March 1978), it seems very likely that this Judge “Rogosin” is the same person as Judge Irving Rogosin whose deemed EOD date for this paper is June 1, 1944, and that is the conclusion adopted for the purposes of this paper.

A brief note here about the former mandatory retirement age of 70 (or until the employee, after age 70, had accumulated 15 years of service) for Federal employees. That requirement was set forth in 5 USC §8335. (See 1976 edition at p. 649.) By the 1978 amendments to the Age Discrimination in Employment Act of 1967, the provision for mandatory retirement at age 70 was repealed (others, such as an age limit for air traffic controllers, were left or modified), effective September 30, 1978. 29 U.S.C. §.633(a). See the note, following § 633(a), “Effective Date of 1978 Amendment.” (2000 ed. at 149, 151.) Thus, it appears that Judge Rogosin possibly was forced to retire that spring of 1978, for the mandatory age requirement still applied at that time, although it had only a few more months to exist. In some circumstances, an employee could receive a 1-year extension of the mandatory retirement age of 70.

A few corrections are made here. On the LOS itself, Judge Campbell’s middle initial is shown as a “B,” but in the reported decisions it always is rendered as a “D.” The latter is adopted for this paper. The same situation applies to Judge Vickery, whose middle initial is shown on the LOS as “B,” but here it is the “A” reflected in the reported decisions. Judge Bertram G. Eadie’s given name is spelled here as reflected in the published decisions rather than the rendering shown on the LOS. On the LOS Judge Parkes is not a “2nd” as given in the reported decisions. The latter version is the one rendered here.

Finally, recall that during the FY ending June 30, 1950, the number of the Division’s judges was increased from 40 to 51. 15 *NLRB AR* at 13. Fate is fickle, however, and as a result of a reduced appropriation for the Agency for fiscal 1952 (FY ending June 30, 1952), the Agency reduced its staff that year by over 19 percent. 17 *NLRB AR* at 1. Thus, “The size of the Board’s staff of

trial examiners was reduced substantially during fiscal 1952.” 17 *NLRB AR* at 5. Although that could have meant a loss of as many as 8 to 10 judges, it appears from the LOS that the Division did not lose that many judges. As can be seen from the LOS, during that FY ending June 30, 1952, one judge resigned (Hamilton) and three others (Greenberg, Lewis, and MacCullen) transferred to other Federal agencies. Additionally, the roster of January 1957, reproduced in a moment, reflects that Judge James R. Hemingway transferred in January 1952 (returning in September of the same year). This makes a total of five judges that the Division lost (one, Hemingway, only temporarily) in fiscal 1952.

<u>NAME</u>	<u>EOD DATE</u>	<u>DATE OF SEPARATION</u>	<u>REASON</u>
1. Bean, Stephen S	2-1-1950⊔ e10-3-1954	11-30-1955	BdMem 12-1-55 thru 8-27-1960; reinstated as TX 8-28-1960.
2. Binder, Samuel	2-1-1953⊔	12-5-1953	Trsfrd to FPC
3. Campbell, Myers D.	9-1-1948⊔	3-2-1950	Trsfrd to FSA, (Fed. Security Agency)
4. Corcoran, James A.	10-27-1952	5-31-1958	Resigned
5. Dalby, Dent D.	12-19-1952⊔	7-2-1953	To Dept Interior
6. Eadie, Bertram G.	3-1-1950⊔	2-10-1954	Resigned
7. Feiler, Sidney	7-10-1944	11-15-1959	To SEC
8. Ferguson, Charles	5-14-1948	4-16-1960	Resigned
9. Fitzpatrick, James J.	8-1-1938❶	1-22-1953	Died
10. Gardner, Hamilton	12-1-1948⊔	9-29-1951	Resigned
11. Greenberg, Isadore	4-1-1946⊔	7-08-1951	To WSB (Wage Stabilization Bd)
12. Hektoen, Josef L.	10-1-1939❶	11-15-1950	Died
13. Ivins, Richard N.	2-1-1953⊔	12-11-1953	To FPC
14. Kent, Henry J.	8-1-1938❶	1-15-1953	Died
15. Laughlin, Loren H.	7-1-1953⊔	7-31-1954	To FTC
16. Lewis, John	4-1-1948⊔	2-3-1952	To FTC
17. MacCullen, Allen	9-1-1949⊔	11-12-1951	To FSA
18. Ordman, Arnold	4-20-1959❷	6-9-1961	Resigned
19. Parkes, Frederic B. 2d	5-1-1945⊔	4-24-1954	Resigned
20. Piper, Robert L.	11-1-48≡ e5-30-1965	10-25-1955	To FTC
21. Rasbury, James	2-12-1959⊔	1-27-1961	Resigned
22. Rogosin, Irving	6-1-1944≡ e1-14-1964	6-9-1953	Resigned;

23. Rotolo, Vincent M.	4-1-1959❶	9-11-1960	To Region 24
24. Ruckel, Horace A.	8-1-1938❷ e8-2-1961	1-2-1954	Resigned; Reinstated 8-2-1961
25. Silberman, Herbert	4-27-1953≡ e1-14-1964	2-13-1960	Resigned
26. Vickery, Merritt A.	8-1-1948⊃	8-26-1949	Resigned
27. Ward, Peter F.	2-1-1938❶	5-31-1953	Resigned

4. Reconstructed Roster of June 30, 1950

Based on the Agency's statement, 15 *NLRB AR* at 13, that as of June 30, 1951, the Division had 51 judges, perhaps we can reconstruct that roster inasmuch as we also have the Division roster of January 10, 1957, to work from. (In the roster below, an "e" in front of an EOD date, as in the cases of Judges Bean, John Eadie, and Piper, is the EOD date assigned by the Division on a return to the Division. As we see in later lists, more data becomes available as to some of the judges on this reconstructed list.) An inspection of the reported cases in the bound volumes during the years around 1952, when compared with the Division roster of January 1957, and the data provided in the LOS, yields the following reconstructed roster (with Judge Ringer as the Chief Judge) of 51 judges as of June 30, 1950 (matching the number stated in the Board's annual report):

	<u>NAME</u>	<u>EOD DATE</u>	<u>NOTES FROM LOS</u>
1.	Asher, Sydney S. Jr.	12-27-1949	
2.	Bean, Stephen S.	2-1-1950⊃ e10-3-1954	BdM 12-1-1955; see LOS
3.	Bellman, Earl S.	2-1-1938	
4.	Bennett, Martin S.	10-7-1944	
5.	Best, Lee J.	3-1-1950	
6.	Bokat, George	2-1-1938	
7.	Buchanan, Lloyd	1-18-1950	
8.	Dixon, Eugene E.	8-12-1948	
9.	Doyle, David F.	2-27-1950	
10.	Downing, George A.	9-16-1948	
11.	Eadie, Bertram G.	3-1-1950⊃	Resigned 2-10-1954
12.	Eadie, John H.	9-25-1942≡ e11-25-43	
13.	Feiler, Sidney	7-10-1944	To SEC 11-15-1959
14.	Ferguson, Charles	5-14-1948	Resigned 4-16-1960
15.	Fitzpatrick, James J.	12-1-1937⊃	Died 1-22-1953

16.	Frey, Eugene F.	1-3-1950	
17.	Gardner, Hamilton	12-1-1948 \supseteq	Resigned 9-29-1951
18.	Goldman, Max M.	7-3-1944	
19.	Greenberg, Isadore	4-1-1946 \supseteq	To WSB 7-8-1951
20.	Hektoen, Josef L.	10-1-1939 \supseteq	Died 11-15-1950
21.	Hemingway, James R.	2-1-1943 \neq	
22.	Hilton, Reeves R.	12-12-1949	
23.	Hunt, A. Bruce	3-18-1939	
24.	Kent, Henry J.	6-1-1937 \supseteq	Died 1-15-1953
25.	Leff, Arthur	5-13-1944	
26.	Lewis, John	4-1-1948 \supseteq	To FTC 2-3-1952
27.	Lindner, Sidney	9-21-1944	
28.	London, David	6-24-1948	
29.	MacCullen, Allen	9-1-1949 \supseteq	To FSA 11-12-1951
30.	Martin, Alba B.	1-4-1950	
31.	Marx, Herman	10-4-1948	
32.	Miller, Maurice M.	4-7-1945	
33.	Mullin, Robert E.	12-12-1949	
34.	Myers, Howard	8-1-1938	
35.	Parkes, Frederic B. 2d	5-1-1945	Resigned 4-24-1954
36.	Piper, Robert L.	11-1-1948 \equiv e5-30-1965	To FTC 10-25-1955
37.	Plost, Louis	4-13-1944	
38.	Ringer, William R.	10-1-1937	
39.	Rogosin, Irving	6-1-1944 \equiv e1-14-1964	Resigned 6-9-1953
40.	Royster, Wallace E.	3-5-1946	
41.	Ruckel, Horace A.	8-1-1938 \equiv e8-2-1961	Resigned 1-2-1954 Reinstated 8-2-1961
42.	Ryan, W. Gerard	8-23-1948	
43.	Scharnikow, William F.	5-12-1945	
44.	Schneider, Charles W.	10-12-1942	
45.	Shaw, James A.	2-11-1946	
46.	Spencer, William E.	11-1-1941 \bullet e5-1-1942	
47.	Ward, Peter F.	2-1-1938 \supseteq	Resigned 5-31-1953
48.	Wheatley, Albert P.	12-13-1949	
49.	Whittemore, Charles W.	8-1-1938	
50.	Wilson, Thomas S.	8-1-1938 \equiv e2-1-1940	
51.	Winkler, Ralph	4-3-1950	

5. The Division Roster of January 10, 1957

In the original, this roster is divided first into nonveterans and then veterans, with a total of 45 names (22 in the first group, and 23 in the veterans group), all shown with last names only. Some personnel notes, as shown below, appear on the original list after seven of the names. The roster's two groups are listed by EOD date, starting with the names of those having the earlier EOD dates. Although prepared in early 1957, the roster does not list names under the separate offices of Washington and San Francisco. Judge Asher's given name is rendered here ("Sydney") as it usually appears in the bound volumes, and in later seniority lists, rather than as spelled ("Sidney") on the actual 1957 list.

For the purposes of this paper, the roster is shown as one list with the names in alphabetical order. Unlike lists that appear later in this paper, the EOD dates shown here are those appearing on the original because they correspond with the EOD dates shown later in the full ABC list of all judges.

Full names are shown here, and Judge Ringer was the Chief Judge. On the Division's original list, Judge Ringer's May 1937 per diem date is listed, followed (as a note) by his regular EOD date. Only the latter is shown here, leaving just six of the judges with the notes copied from the 1957 original. Following four of the names, symbol numbers are applied. Copied from the ABC List, such additions are, of course, unique to this paper. Summarized earlier, the number symbols are explained in the Preface to the ABC List.

	<u>NAME</u>	<u>EOD DATE</u>	<u>NOTES</u>
1.	Asher, Sydney S. Jr.	12-27-1949	
2.	Bellman, Earl S.	2-1-1938	
3.	Bennett, Martin S.	10-7-1944	
4.	Best, Lee J.	3-1-1950	
5.	Bokat, George	2-1-1938	
6.	Buchanan, Lloyd	1-18-1950	
7.	Corcoran, James A.	10-27-1952	
8.	Dixon, Eugene E.	8-12-1948	Sep. 4-27-51. Reinstated 8-11-1952.
9.	Doyle, David F.	2-27-1950	
10.	Downing, George A.	9-16-1948	
11.	Eadie, John H.	9-25-1942	Sep. 11-25-44. Re-emp. 2-11-46.
12.	Feiler, Sidney	7-10-1944	
13.	Ferguson, Charles	5-14-1948	
14.	Fischer, John C.	10-15-1952	
15.	Frey, Eugene F.	1-3-1950	

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|-----|---------------------------|--------------------------|--|
| 16. | Goldman, Max M. | 7-3-1944 | |
| 17. | Hemingway, James R. | 2-1-1943≠ | Trans. Lit. 11-8-43. Back to TX 2-14-44. Trans. [to] WSB 1-16-52. Back to TX 9-2-1952. |
| 18. | Hilton, Reeves R. | 12-12-1949 | |
| 19. | Hunt, A. Bruce | 3-18-1939 | Trans. [to] WLB 5-7-43. Reinstated 4-1-46. |
| 20. | Kessel, Thomas N. | 4-15-1953 | |
| 21. | Leff, Arthur | 5-13-1944 | |
| 22. | Libbin, Louis | 4-20-1954 | |
| 23. | Lindner, Sidney | 9-21-1944 | |
| 24. | London, David | 6-24-1948 | |
| 25. | Martin, Alba B. | 1-4-1950 | |
| 26. | Marx, Herman | 10-4-1948 | |
| 27. | Miller, Maurice M. | 4-7-1945 | |
| 28. | Mullin, Robert E. | 12-12-1949 | |
| 29. | Myers, Howard | 8-1-1938 | |
| 30. | Plost, Louis | 4-13-1944 | |
| 31. | Reyman, Arthur E. | 1-21-1953 | |
| 32. | Ringer, William R. | 10-1-1937 | |
| 33. | Royster, Wallace E. | 3-5-1946 | |
| 34. | Ryan, W. Gerard | 8-23-1948 | |
| 35. | Sahm, Henry S. | 1-26-1953 | |
| 36. | Scharnikow,
William F. | 5-12-1945 | |
| 37. | Schneider, Charles W. | 10-12-1942 | |
| 38. | Shaw, James A. | 2-11-1946 | |
| 39. | Silberman, Herbert | 4-27-1953≡
e1-14-1964 | |
| 40. | Somers, A. Norman | 9-27-1954 | |
| 41. | Spencer, William E. | 11-1-1941• | |
| 42. | Wheatley, Albert P. | 12-13-1949 | |
| 43. | Whittemore,
Charles W. | 8-1-1938 | Trans. [to] War Dept. 1-10-46. Re-appt. 2-28-47. |

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|-----|-------------------|-----------|---|
| 44. | Wilson, Thomas S. | 8-1-1938= | Trans. OSS 3-4-43.
Re-emp.
9-14-45. Resigned
11-28-47.
Reinstated 5-2-49. |
| | | e2-1-1940 | |
| 45. | Winkler, Ralph | 4-3-1950 | |

6. The 1960s — Women and Minorities Join the Corps of Judges

Things changed again in the early 1960s. Thus, for the fiscal year ending June 30, 1960, “The Division of Trial Examiners reached its greatest strength, and for the first time in the agency’s history a woman trial examiner [Fannie M. Boyls] was appointed.” 25 *NLRB Annual Report* at 6. The May 29, 1961 roster of judges carries the names of 56 judges at Washington, and 9 at San Francisco, for a total of 65 judges. “Fiscal 1962 was the busiest year in the history of the National Labor Relations Board,” 27 *NLRB Annual Report* at 1. By May 1, 1965, as reflected on a roster of that date, the Division’s strength had risen to 92 judges (not listed by office). And in his March 1969 oral history interview, Chief Judge Bokats reports that the current number of judges in the Division was 105. *Bokats* at 16, 70, 74.

In about June 1937, future Judge Fannie M. Boyls (EOD 4-25-1960) began her NLRB career researching legal issues for the General Counsel and his chief assistants. After a few months of that work, Boyls “drifted” into work in the old Review Section. In 1941, Boyls transferred to the Enforcement Division. *Boyls* at 2, 5. She was one of several female Review Section attorneys called to testify before the Smith Committee by the Committee’s general counsel, Edmund M. Toland. (Another was future NLRB Judge Anne E. Freeling (Schlezinger), EOD 6-7-1968.) *Reshaping* at 182 n. 47, 335. As Prof. Gross observes: “Toland’s anti-NLRB animus was flagrantly displayed in his examination of the Review Division attorneys.” *Id.* at 182. And, at page 183, Prof. Gross writes: “The women Review attorneys were treated rudely and disparagingly. Toland shouted at them and [Congressman Harry N.] Routzohn asked personally insulting questions.” Judge Boyls was a 1929 graduate of the University of Texas School of Law. She died February 14, 2002, at the age of 96. “In Memoriam,” *UTLaw*, Summer 2002, at 61.

When members of the Review Section, future Judges Boyls and Freeling (Schlezinger) attended the November 1938 Agency conference, mentioned earlier, held in Washington, DC. As identified by the supporting documents described earlier, zoom-in copies of the 1938 images of attendees Boyls and Freeling (Schlezinger) appear below:

November 15, 1938			November 15, 1938
Future NLRB Judge Fannie M. Boyls (EOD 4-25-1960)			Anne Freeling — future NLRB Judge Anne (Freeling) Schlezingner (EOD 6-7-1968)

In memory of Judge Boyls, perhaps when the women judges of today ascend the bench to preside in a case, they will recall that it was Judge Boyls who in January 1940, long before she was able to ascend the bench, suffered verbal abuse from the Smith Committee. (Future Judge Anne Freeling Schlezingner was another.) The description by Prof. Gross, *Reshaping* at 182-183, includes a portion of the remarks on the House floor by Congressman Clare Hoffman of Michigan, as abbreviated here, ridiculing the female Review Section lawyers:

Those girls who are acting as reviewing attorneys for the Board are fine young ladies. . . . but the chances are 99 out of 100 that none of them ever changed a diaper, hung a washing, or baked a loaf of bread. None of them has had any judicial or industrial experience to qualify her for the job they are trying to do, and yet here they are — after all — good looking, intelligent appearing as they may be, and well groomed all of them, writing the opinions on which the jobs of hundreds of thousands of men depend and upon which the success or failure of an industrial enterprise may depend and we stand for it. [Fn. symbol omitted.]

The first few female judges to arrive in the 1960s were, in EOD order, as follows (with the list extended to 1974 to show (now retired) Judge Robbins who, it so happens, is also African American:

By EOD Date

	<u>NAME</u>	<u>EOD</u>	<u>OFFICE</u>	<u>NOTE</u>
1.	Boyls, Fannie M.	04-25-1960	DC	
2.	Blake (Hulse), Rosanna A.	04-29-1962	DC	
3.	Klein, Josephine	01-17-1966	DC	
4.	Schlezingner, Anne E. (Freeling)	06-07-1968	DC	

5.	Sherman, Nancy	01-23-1972	DC	
6.	Stevenson, Almira	03-05-1972	DC	
	Sarrica (Goicoechea), Jennie	06-11-1972	DC	
7.	Robbins, Earldean V. S.	03-31-1974	SF	Deputy Chief

One more historical note about Anne E. Freeling, the future Judge Anne Freeling Schlezinger. The reported decisions reflect that she was a contemporary in the old Review Section with another attorney by the name of Julius Schlezinger. See the “of counsel to the Board” listings at 13 NLRB 672 (7-18-1939) (Freeling) and 13 NLRB 396 (6-28-1939) (Schlezinger). Judge Leonard Wagman (Retired) knew both, and confirms that the two did marry. On August 15, 1978, at just 68, Judge Schlezinger died of cancer. *The Washington Post*, August 18, 1978, at C13.

As of the publication of this paper, the number of women judges, past and present, has reached 20.

African-American judges also began arriving in the 1960s. There is no plan for this paper to create separate and continuing lists of different groups of judges. (The Agency’s newsletter, *All Aboard*, does a great job in that regard.) The focus of this paper is on the Division as a Corps of Judges. The only groups listed here are the separate office locations. Nevertheless, as this paper is about the history of the Corps of Judges (especially the early years), that purpose plus courtesy and mutual respect require that note be made here of when women and minority judges began arriving. As of today, the all-time list of African-American judges totals six, in EOD order as follows:

1.	Arthur Christopher Jr.	1-18-1965	DC	
2.	Gordon J. Myatt	1-16-1966	SF	
3.	Lloyd S. Greenidge	6-17-1968	DC	
4.	Elbert D. Gadsden	6-11-1973	DC	
5.	Earldean V.S. Robbins	3-31-1974	SF	Deputy Chief
6.	Earl Shamwell Jr.	1-19-1997	DC	

Hispanic judges began arriving at the Division in the person of Judge George Aleman (EOD 1-22-1995). He was followed by Judge Michael Rosas (EOD 8-25-2003), as reported in the October 2003 issue of *All Aboard* at 9. Judges Aleman and Rosas are stationed at the DC office.

7. The Division Roster of March 7, 1961

For the FY ending June 30, 1961, “The Division of Trial Examiners reached its greatest strength.” 26 *NLRB Annual Report* at 8. The Division’s March 7, 1961 roster (as well as the May 29, 1961 alphabetical roster) contains a total of 65 names, in the order of their EOD date. (The May 1961 roster has

only their service computation dates. The latter generally are not relevant here, except to help distinguish between two judges with the same surnames.) The May 1961 list is helpful by including (usually) the first names and middle initials of the judges. The May 1961 list also separates the 65 judges as between their two offices, one group being the 56 judges with the Washington office, and the other group being the 9 judges serving with the San Francisco office.

With four exceptions, the EOD dates shown here are those on the original as well as on the ABC List. The four exceptions are marked with symbol numbers. The number symbols are summarized earlier, and they are explained in the Preface to the ABC List. The primary EOD date shown for them is the original, deemed or otherwise, as reflected on the ABC List. The later Division-assigned EOD date is shown off to the right and preceded by an “e.”

A fifth name — that of Judge Arnold Ordman — has his EOD date marked by a symbol number, but with no trailing “e” EOD date. Although his EOD date is not shown on the original list, or here, as later adjusted by the Division, because this is the last roster (other than the May 1961 roster, not reproduced in this paper), on which Judge Ordman’s name appears, this brief explanation regarding his EOD date is in order. As is shown on the LOS, Judge Ordman “resigned” on June 9, 1961. In fact, he transferred to the Chairman’s office to become Chief Counsel for the new Board Chairman, Frank McCulloch. After a couple of years there he was appointed the General Counsel, serving two terms in that position. In the 1970s he returned to the Division, and later retired, both actions occurring between the roster of June 30, 1970, and that of March 1981. Hence, as to any roster, his original EOD date was never adjusted by the Division, and that explains why his original EOD date appears in this paper without any notation regarding any adjustment the Division may have done on personnel documents for the time that he was absent from the Division. Accordingly, his original EOD date is marked by the symbol •, but with no trailing “e” date.

This brief note regarding Judge Seagle. Recall that a few pages earlier, under the topic for the Reconstructed Roster of February 1940, it is there presumed that Judge Seagle, even though he last presided in July 1939, did not leave the Division until after his early 1940 testimony before the Smith Committee. He obviously returns to the Division in 1960, for he resumes presiding in May 1960. His new EOD date of 4-25-1960, as assigned by the Division, is reflected on the March 1961 roster. His primary EOD date is marked with the symbol ≡.

The 65 judges named on the March 7, 1961 Division roster are as follows, with Judge Ringer being the Chief Judge, and Judge Spencer being the Associate (or possibly the Deputy) Chief Judge in San Francisco.

Washington, D.C. Office

	<u>Name</u>	<u>EOD Date</u>	
1.	Asher, Sydney S. Jr.	12-27-1949	
2.	Bean, Stephen S.	2-1-1950	e10-3-1954
3.	Bellman, Earl S.	2-1-1938	
4.	Best, Lee J.	3-1-1950	
5.	Bisgyer, Paul	1-24-1960	
6.	Bokat, George	2-1-1938	
7.	Bott, George J.	2-1-1960	
8.	Boyls, Fannie M.	4-25-1960	
9.	Brown, William J.	5-2-1960	
10.	Buchanan, Lloyd	1-18-1950	
11.	Dixon, Eugene E.	8-12-1948	
12.	Donovan, Ramey	2-16-1959	
13.	Dorsey, John H.	1-11-1960	
14.	Downing, George A.	9-16-1948	
15.	Eadie, John H.	9-25-1942	e1-25-1944
16.	Fischer, John C.	10-15-1952	
17.	Foley, James F.	4-20-1959	
18.	Frey, Eugene F.	1-3-1950	
19.	Friedman, Morton D.	5-15-1960	
20.	Funke, John F.	4-16-1959	
21.	Gilbert, Stanley	4-25-1960	
22.	Gillis, Wellington A.	2-8-1960	
23.	Goldman, Max M.	7-3-1944	
24.	Hilton, Reeves R.	12-12-1949	
25.	Hunt, A. Bruce	3-18-1939	
26.	Kessel, Thomas N.	4-15-1953	
27.	Leff, Arthur	5-13-1944	
28.	Libbin, Louis	4-20-1954	
29.	Lightner, Leo F.	3-9-1959	
30.	Lindner, Sidney	9-21-1944	
31.	London, David	6-24-1948	
32.	Maher, Thomas F.	5-11-1959	
33.	Martin, Alba B.	1-4-1950	
34.	Mullin, Robert E.	12-12-1949	
35.	Ordman, Arnold	4-20-1959	●
36.	Plost, Louis	4-13-1944	

37.	Powell, George L.	2-11-1959	
38.	Reyman, Arthur E.	1-21-1953	
39.	Ricci, Thomas A.	6-15-1958	
40.	Ringer, William R.	10-1-1937	
41.	Ross, Samuel	6-15-1958	
42.	Ryan, W. Gerard	8-23-1948	
43.	Sahm, Henry S.	1-26-1953	
44.	Saunders, Phil W.	4-15-1959	
45.	Scharnikow, William F.	5-12-1945	
46.	Schneider, Charles W.	10-12-1942	
47.	Seagle, William	4-1-1937	e4-25-1960
48.	Shaw, James A.	2-11-1946	
49.	Sherman, Sidney	4-19-1960	
50.	Somers, A. Norman	9-27-1954	
51.	von Rohr, John P.	1-11-1960	
52.	Vose, Owsley	6-18-1959	
53.	Wheatley, Albert P.	12-13-1949	
54.	Whittemore, Charles W.	8-1-1938	
55.	Wilson, Thomas S.	8-1-1938	e2-1-1940
56.	Winkler, Ralph	4-3-1950	

San Francisco Office

	<u>Name</u>	<u>EOD Date</u>	
1.	Bennett, Martin S.	10-07-1944	
2.	Doyle, David F.	2-27-1950	
3.	Hemingway, James R.	2-01-1943	
4.	Kennedy, Eugene K.	2-24-1959	
5.	Marx, Herman	10-4-1948	
6.	Miller, Maurice M.	4-7-1945	
7.	Myers, Howard	8-1-1938	
8.	Royster, Wallace E.	3-5-1946	
9.	Spencer, William E.	11-1-1941	e5-1-1942

8. The Division Roster of May 1, 1965

The Division's May 1, 1965 roster has 92 names, listed by EOD date, the earliest date first, with both the DC and SF offices combined into one list of capitalized surnames only, followed by their EOD dates.

The first name on the actual list is that of Judge Ringer. His inclusion is something of a surprise, for the impression has been that Chief Judge William R. Ringer retired in late November 1961. (He does not appear on the next roster, which is dated June 30, 1970.) Thus, it is reported at 134 NLRB iii that

the (new) Chief Trial Examiner is George Bokar, and that, per footnote 1, he was “Appointed December 1, 1961, to succeed William R. Ringer.” Clerical error in typing Judge Ringer’s name in the usual spot even after he was gone? Did he take a medical leave? Did he reach the mandatory retirement age of 70 and have to retire at the end of the month in which he turned 70? (The March 1961 roster, which gives the birth dates, shows his birth date as 8-11-1898. Thus, he would not reach 70 until August 1968.) Did he encounter some kind of pressure to step down? Or did he simply tire of administration and prefer to preside a few more times before retiring?

Research in the bound volumes discloses that Judge Ringer did preside after stepping down from his position of Chief Trial Examiner — but only for two trials, one in January 1962, and the second in February 1962: 137 NLRB 216 (1962), and 141 NLRB 802 (1963). Retired Chief Judge David S. Davidson (EOD 4-19-1965) reports, during the research for this paper, that when he arrived at the Division, Judge Ringer was not there and that he apparently had been gone for a substantial period of time. Whatever the correct answer to the speculative questions posed above, for this paper it is assumed that Judge Ringer’s name appears on the 1965 list by some error. Accordingly, Judge Ringer’s name is not included among the names on the following list.

Turn now to the format here for the 1965 list. The 91 names (there are 92 in the original, counting Judge Ringer) are given here as usual for this paper, in their mostly full form, and presented in ABC order. Similar to the situation with the 1961 list, with nine (9) exceptions, the EOD dates shown below are the same as those on the May 1, 1965 list. For the nine exceptions, the primary EOD dates are marked with symbol numbers and followed by the “e,” or Division-adjusted EOD dates. Aside from the nine adjusted “e” dates, the other primary or original dates shown correspond to the dates reflected on the ABC List.

Regarding EOD dates, recall that Division policy generally appears to have been to adjust EOD dates so as to offset any absence at other positions in the Agency, and to assign new EOD dates matching the date of return for those who left the Agency. An exception to this latter seems to have been applied for those judges who, especially during World War 2, left for a couple of years or so to serve at such national defense-related agencies as the OSS and the WLB. And where reinstatement for national defense might not have been recognized on one list, such as this 1965 list, it may have been corrected on a later list, such as the 1970 list. Thus, it seems that the returning judges generally received, in this respect of seniority, the reemployment rights accorded returning military veterans.

Some notes here on a few of the EOD dates in the following 1965 list. Regarding the date for David F. Doyle, although the actual 1965 list shows his EOD date as “2-7-50,” both the 1957 and 1961 lists record it as “2-27-50,” and

the latter version is used here. First, the 1957 list, with fewer names, had less chance of a clerical mistake. Second, no correction was made in 1961. (Doyle was gone before the 1970 list.)

John H. Eadie's EOD date of 9-25-1942 is what is shown on the 1957 list. That list also shows that he apparently left the Agency for some 14 months, from late November 1944 to almost mid-February 1946. No destination federal agency is given. Had he entered private practice, under Division policy he apparently would have been assigned a new EOD date matching the date of his return to the Division. But if he actually went to another Federal agency, to serve in the war effort in some capacity, he normally would have suffered no loss of seniority, as others were not. If he transferred elsewhere in the Agency, he would have been given credit for his prior Division service by backing up an equivalent time from his return date to fix his new, and adjusted, EOD date.

Judge Eadie's absence was stated on the 1957 list, but no adjustment was made. (This is clear because his first trial opened on 11-2-1942, as reported at 47 NLRB 920, about 5 weeks after his arrival at the Division.) On the March 1961 list, his EOD date was adjusted and rendered as "1-25-44," an offset of 16 months. In the May 1965 list, this offset was changed to 14 months, which explains his new EOD date of "11-25-43," as given there. We do not have enough facts to know whether this offset was fully consistent with Division policy, particularly if his absence was to serve in the war effort in some capacity. In any event, however, his EOD date here is his original of 9-25-1942, marked by the symbol \equiv so as to show that the trailing "e" date has been assigned by the Division to adjust for his absence of 14 months.

Presiding only a few years, Judge Rosanna A. Blake (Hulse) appears on the May 1965 roster only, and there under the surname of "Hulse." In her decisions (IRs), however, she used the name of "Blake," perhaps her maiden name. See, for example, 140 NLRB 649 (1963) and 157 NLRB 1065 (1966). For the reproduction of the May 1965 list in this paper, Judge Blake is listed under the surname that she used in her reported decisions.

Judge David Karasick is shown in the below-version of the May 1965 roster with two EOD dates (the earlier one with the symbol \mid). A brief sketch of at least some of his career with the Agency appears later in the **Preface** to the ABC List, in the subsection for Short Term Judges. Judge Karasick appears to have retired by the time of the June 1970 roster.

As is reflected in the notes column on the 1957 roster, reproduced earlier, Judge James R. Hemingway left the Division twice — once for 15 months during 1943-1944 to work in the Agency's Litigation Section, and again for over 7 months when he left the Agency, during the Korean War, to serve with the WSB. No adjustment was made to his EOD date on either the

1957 or March 1961 rosters because of these notations. On the 1965 roster, however, his EOD date was adjusted to read “9-16-43.” The June 1970 list restores his original date of “2-1-43.” As that is the Division’s last word respecting him, no “e” date is inserted here for him, although his original EOD date is marked with the symbol \neq to indicate that restoration.

Reflecting Division policy of assigning a brand new EOD date to a judge returning from outside the Agency (unless involved in national defense), Judge Irving Rogosin, deemed original EOD 6-1-1944, was assigned such a new date. Per the LOS, as reproduced earlier, he resigned from the Division on June 9, 1953. He apparently went into private practice. Had he transferred elsewhere in the Agency, or to another federal agency, that information apparently would have been shown as the LOS did for the others. When Judge Rogosin returned to the Division (first presiding in January 1964 — 153 NLRB 392), he was assigned the new EOD date of 1-14-1964, as shown by the May 1, 1965 roster. Thus, the new EOD date apparently matched his return date to the Division. But in this paper, and in the 1970 list that follows, Judge Rogosin receives his original EOD date, marked by the symbol \equiv , and the trailing “e” date that follows is the brand new 1964 date (unadjusted for his prior service with the Division) assigned by the Division when he returned.

On the Division’s actual 1965 and 1970 rosters, the EOD dates for Judge Arthur Leff and Judge Ralph Winkler (as Judge Winkler, in 1965, was serving as Board Member Gerald Brown’s Chief Counsel, he is not on the 1965 list) are advanced (as was done with Judge Bean’s EOD several years earlier). This apparently was done so as to offset the years that they were gone from the Division and serving as Chief Counsel at the Board: Judge Leff for Board Chairman Frank McCulloch; Judge Winkler for Board Member Gerald Brown. In that Chief Counsel position, Judge Leff succeeded Judge Arnold Ordman when Ordman was appointed, on 5-14-1963 to be the General Counsel (see 142 NLRB iii, fn. 1). On the 1965 list for this paper, Judge Leff’s original EOD date is shown, marked with the symbol \bullet , followed by the Division-adjusted EOD date, with the latter preceded by an “e.”

Judge William E. Spencer’s (original) EOD date is shown as 11-1-1941 on the January 10, 1957 and March 7, 1961 rosters, but 5-1-1942 on the May 1, 1965 list. Perhaps the 1942 date crept in by virtue of a clerical error. Or perhaps he left the Division to work elsewhere in the Agency for 6 months between the March 1961 and May 1965 lists. That seems unlikely at that late stage in his career. (He retired before the June 1970 roster.) Certainly, the 1942 date is suspect, to say the least. Regardless, in this paper, including the version of the 1965 list that follows, Judge Spencer receives his original EOD date, marked a \bullet , followed by the “e” date of 5-1-1942.

Finally, we have the situation of Judge Thomas S. Wilson. If readers will refer back to the January 1957 roster, you will see that Judge Wilson's original EOD is recorded there as 8-1-1938. (He began presiding in March 1938, as reported at 7 NLRB 38, but obviously benefited from the Board's policy change, effective August 1, 1938, to hire a substantial number of the per diem judges and thereafter to use only regular-staff judges.) Following that EOD date on the 1957 list are entries for over 2 years that he served with the OSS, from March 1943 to September 1945, and an entry showing that he "resigned" on 11-28-1947 and was "reinstated," some 17 months and 4 days later, on 5-2-1949. On the March 1961 and May 1965 rosters, Judge Wilson's EOD date is shown as "2-1-40," or an adjustment of 18 months from his original EOD date of 8-1-1938. However, on the June 30, 1970 Division roster, the last list on which Judge Wilson's name appears, his EOD date is back to the original 1938 date followed by the abbreviated note, "(Res. 2 yrs.)."

Does the "Res." mean "resigned" for 2 years? If so, that is off by several months. The Division's policy of usually assigning a new date at a judge's return to the Division following a resignation and term of private practice, apparently was not followed here. Instead, the Division appears to have applied the adjustment process normally employed in cases of judges returning after working elsewhere in the Agency. (This is, from the return date, subtracting the prior service of, here [with full credit for his national defense service], 9 years, 3 months, 38 days. Although that would seem to produce an adjusted EOD date of about 1-5-1940, the date assigned by the Division of 2-1-1940 is reasonably close and could reflect circumstances not known here.) In any event, for this paper, and in the list that follows, Judge Wilson receives his original EOD date followed by the "e" date of 2-1-1940, that being more specific than the 1970 list's rather cryptic modifier of the EOD date.

Before leaving Judge Wilson, it perhaps should be noted that five judges listed on the LOS left the Agency and later returned: Piper, Rasbury, Rogosin, Ruckel, and Silberman. We know from later rosters that all except Judge Rasbury received brand new Division-assigned EOD dates, and presumably he did also. The reason we do not know for sure respecting Judge Rasbury is that the dates of his return and eventual retirement or departure fell between the 1970 and 1981 rosters, and therefore he is not on any list available from the 1970s showing what new EOD he was assigned. Thus, the treatment of Judge Wilson's EOD date (adjusting his EOD date rather than assigning a brand new one) appears to be an aberration, or it may reflect factors not available in the research for this paper.

As noted above, the actual list combines the DC and SF offices into one May 1965 list. The nine names on the 1961 list as constituting the SF office are also among the names on this 1965 list. And some new names that are included here also appear as part of the SF contingent on the 1970 list that follows later.

(Beginning with this 1965 list, the Division no longer divides the rosters into veterans and nonveterans.) With the foregoing notes and qualifications, here is the Division's May 1, 1965 roster, but with (mostly) full names in ABC order:

The Division Roster of May 1, 1965

Name		EOD DATE
1.	Asher, Sydney S. Jr.	12-7-1949
2.	Barban, Sidney J.	1-18-1965
3.	Barker, James T.	10-2-1961
4.	Bennett, Martin S.	10-7-1944
5.	Best, Lee J.	3-1-1950
6.	Bisgyer,	1-24-1960
7.	Blake (Hulse), Roxanna A.	4-29-62
8.	Bokat, George	2-1-1938
9.	Bott, George J.	2-1-1960
10.	Boyls, Fannie M.	4-25-1960
11.	Brown, William J.	5-2-1960
12.	Buchanan, Lloyd	1-18-1950
13.	Bush, Maurice S.	1-4-1965
14.	Christopher, Arthur Jr.	1-18-1965
15.	Cohn, Robert	1-18-1965
16.	Constantine, James V.	10-2-1961
17.	Davidson, David S.	4-19-1965
18.	Dixon, Eugene E.	8-12-1948
19.	Donovan, Ramey	2-16-1959
20.	Downing, George A.	9-16-1948
21.	Doyle, David F.	2-27-1950
22.	Eadie, John H.	9-25-1942=
23.	Fischer, John C.	10-15-1952
24.	Foley, James F.	4-20-1959
25.	Frey, Eugene F.	1-3-1950
26.	Friedman, Morton D.	5-15-1960
27.	Funke, John F.	4-16-1959
28.	Gilbert, Stanley	4-25-1960
29.	Gillis, Wellington A.	2-8-1960
30.	Goerlich, Lowell M.	4-19-1965
31.	Goldberg, Sidney D.	10-2-1961
32.	Goldman, Max M.	7-3-1944
33.	Hemingway, James R.	2-1-1943≠
34.	Hilton, Reeves R.	12-12-1949
35.	Hinkes, Harry R.	4-1-1965
36.	Hunt, A. Bruce	3-18-1939
37.	Kapell, William W.	5-24-1964
38.	Karasick, David	7-1-1943
39.	Kennedy, Eugene K.	2-24-1959
40.	Kessel, Thomas N.	4-15-1953
41.	Knapp, Laurence A.	12-10-1962
42.	Kuskin, Harry H.	4-15-1965
43.	Leedom, Boyd	1-5-1965

e11-25-1943

e4-23-1962

44.	Leff, Arthur	5-13-1944●	e4-16-1951
45.	Libbin, Louis	4-20-1954	
46.	Lightner, Leo F.	3-9-1959	
47.	Lindner, Sidney	9-21-1944	
48.	Lipton, Benjamin	9-26-1961	
49.	London, David	6-24-1948	
50.	Maher, Thomas F.	5-11-1959	
51.	Maller, Abraham H.	4-30-1962	
52.	Martin, Alba B.	1-4-1950	
53.	Marx, Herman	10-4-1948	
54.	Miller, Maurice M.	4-7-1945	
55.	Mullin, Robert E.	12-12-1949	
56.	Myers, Howard	8-1-1938	
57.	Nachman, Joseph I.	4-16-1962	
58.	Ohlbaum, Stanley N.	6-30-1963	
59.	Penfield, Louis S.	12-10-1962	
60.	Peterson, Ivar H.	12-3-1962	
61.	Powell, George L.	2-11-1959	
62.	Reel, Frederick U.	10-2-1961	
63.	Reyman, Arthur E.	1-21-1953	
64.	Ricci, Thomas A.	6-15-1958	
65.	Rogosin, Irving	6-1-1944≡	e1-14-1964
66.	Rosenberg, Max	1-14-1964	
67.	Ross, Samuel	6-15-1958	
68.	Royster, Wallace E.	3-5-1946	
69.	Ruckel, Horace A.	8-1-1938≡	e8-2-1961
70.	Ryan, W. Gerard	8-23-1948	
71.	Sahm, Henry S.	1-26-1953	
72.	Saunders, Phil W.	4-15-1959	
73.	Scharnikow, William F.	5-12-1945	
74.	Schneider, Charles W.	10-12-1942	
75.	Seagle, William	4-1-1937≡	e4-25-1960
76.	Shaw, James A.	2-11-1946	
77.	Sherman, Sidney	4-19-1960	
78.	Silberman, Herbert	4-27-1953≡	e1-14-1964
79.	Singer, Samuel M.	6-11-1962	
80.	Somers, A. Norman	9-27-1954	
81.	Spencer, William E.	11-1-1941●	e5-1-1942
82.	Stone, Jerry B.	5-1-1962	
83.	Summers, Harold X.	10-16-1961	
84.	Tocker, Herman	1-4-1965	
85.	von Rohr, John P.	1-11-1960	
86.	Vose, Owsley	6-18-1959	
87.	Webster, James R.	1-14-1964	
88.	Whittemore, Charles W.	8-1-1938	
89.	Wilson, E. Don	10-16-1961	
90.	Wilson, Thomas S.	8-1-1938≡	e2-1-1940
91.	Youngblood, W. Edwin	6-7-1962	

9. The Division Roster of June 30, 1970

As the Agency's case load increased during the 1960s, so did the number of the Division's judges. The 95 names on the Division's roster of June 30, 1970, appear in seniority order, surname only, and separated into the Washington (73 names) and San Francisco (22 names) offices. That several names are crossed through appears to be a reflection that the list was used for several years, with departures marked through, rather than typing a new list. (Since at least the early 1990s, the list consistently has been an alphabetical roster rather than a seniority listing.)

The trial docket was heavy during the 1970s and into the 1980s. Reaching very close to the Division's all-time high mark of about 120, the number of 117 judges is specified as the total for the Division in the Board's December 1, 1981 press release naming eight new judges. As the caseload has decreased in more recent years, so has the number of the Division's staff of judges. The January 17, 1983 Division Roster shows a staff of 112 judges — 61 at DC, 26 at San Francisco, 15 at New York, and 10 at Atlanta. In the 1980s, however, the trial docket began to shrink and we see the number of judges also declining.

The Division's June 30, 1970 roster is arranged by seniority of EOD date. As earlier discussed, seniority dates, even strict Division seniority, would be relevant to the working staff (claiming a favored window office, for example). For this paper, however, primary importance is placed on the original EOD date as a regular staff Division Judge. Even so, the penultimate list in this paper does place the judges under their office and by original, including deemed, EOD dates. Accordingly, in the arrangement that follows, the names are placed in alphabetical order. In 1970 the Chief Judge was George Bokar. Oddly, Judge Bokar's EOD date appears to be the date that he began on per diem status. The date he became regular staff is used here.

As with the previous Division rosters, the EOD dates shown are those on the original list with the exception of the six judges shown with adjusted EOD dates, as indicated by a trailing "e" date. Plus, Judge Hemingway (SF office) has a symbol marking by his EOD date, as discussed earlier at the 1965 list.

The names and dates of Judges Leff and Winkler are interlined in pen on the actual list, apparently because they returned to the Division after the June 30, 1970 list was prepared. Although the advancement of Judge Winkler's EOD date was mentioned earlier (and Judge Leff's discussed) in covering the 1965 list, a few details respecting the two (original and later-assigned) EOD dates for Judge Ralph Winkler will help illustrate the adjustment process. Both EOD dates for Judge Winkler are Division assigned dates. The first, 4-3-1950, appears on the Division rosters of January 1957 and

March 1961. Shortly after Gerald Brown was appointed on April 14, 1961, to begin a term as a Board Member, Judge Winkler left the Division to be Chief Counsel for Member Brown. See 131 NLRB at iii and fn. 1; *Winkler* at 2, 13-14; *Welles* at 42.

When Member Brown's second term expired August 27, 1971 (192 NLRB at iii, fn. 1), Judge Winkler returned to the Division. *Winkler* at 2. As this return occurred a bit over a year after the June 30, 1970 roster, it perhaps explains why Judge Winkler's name is interlined on the list in pen and there assigned the adjusted EOD date of 5-25-1960. The adjustment clearly is for the approximately 10 years that he was absent from the Division serving as Member Brown's Chief Counsel. Thus, on the 1970 list as reproduced here, Judge Winkler's EOD date is marked with the symbol •.

For the reasons discussed at the May 1965 roster, above, San Francisco Judge Thomas S. Wilson's EOD original date of 8-1-1938, marked by the symbol ≡, is not followed by the note, "(Res. 2 yrs.)," that appears on the actual 1970 list, but by the "e" date of 2-1-1940.

The point to be made here is that such matters of seniority, except in one instance, are not relevant to this paper's search for use of the original EOD date. The single situation in which Division seniority would be relevant here is that in which total Division time for judges is compared to determine who has served the longest with the Division. As noted earlier, Judge Marion Ladwig was honored at the Agency for achieving that distinction. Judge Ladwig never left the Division, until his retirement over 38 years after he arrived. However, the task of compiling a separate list for Division seniority has not been a goal of the research for this paper. Indeed, that effort perhaps would require access to personnel documents to confirm what only might be suggested from rosters and decisions in the bound volumes.

Finally, the Division's June 30, 1970 roster places the judges under either the Washington office (73 judges) or the San Francisco office (22 judges), with a total of 95 judges. The actual list interlines Judge Benjamin Lipton under the DC office, as well as including his name with the SF judges. The interline apparently was intended to correct the mistake of showing him with the SF office. Reports from other judges compel the conclusion that Judge Lipton was never with the SF office. In this paper his name is shown under the DC office. Of the judges listed, 16 names (of established judges) are crossed out on the actual list. Such strike-throughs appear to have been made after the judges retired, or otherwise left the Division, and are not an indication that the names were mistakenly included on the list.

The Division's Roster of June 30, 1970		
WASHINGTON, D.C. OFFICE		
1.	Asher, Sydney S. Jr.	12-27-1949
2.	Barban, Sidney J.	01-18-1965
3.	Bisgyer, Paul	01-24-1960
4.	Blackburn, Benjamin K.	06-07-1968
5.	Bokat, George	02-01-1938
6.	Bott, George J.	02-01-1960
7.	Boyls, Fannie M.	04-25-1960
8.	Brown, William J.	05-02-1960
9.	Buchanan, Lloyd	01-18-1950
10.	Bush, Maurice S.	01-04-1965
11.	Cohn, Robert	01-18-1965
12.	Constantine, James V.	10-02-1961
13.	Davidson, David S.	04-19-1965
14.	Dixon, Eugene E.	08-12-1948
15.	Donovan, Ramey	02-16-1959
16.	Dyer, John M.	02-28-1966
17.	Fitzpatrick, James L.	06-07-1968
18.	Foley, James F.	04-20-1959
19.	Frey, Eugene F.	01-03-1950
20.	Friedman, Morton D.	05-15-1960
21.	Funke, John F.	04-16-1959
22.	Gillis, Wellington A.	02-08-1960
23.	Goerlich, Lowell M.	04-19-1965
24.	Goldberg, Arthur M.	01-17-1966
25.	Goldberg, Sidney D.	10-02-1961
26.	Gregg, John G.	10-25-1965
27.	Greenidge, Lloyd	06-17-1968
28.	Hinkes, Harry R.	04-01-1965
29.	Jalette, Henry L.	06-07-1968
30.	Janus, Milton H.	01-17-1966
31.	Kapell, William W.	05-24-1964
32.	Kessel, Thomas N.	04-15-1953
33.	Klein, Josephine	01-17-1966
34.	Knapp, Laurence A.	12-10-1962
35.	Kuskin, Harry H.	04-15-1965
36.	Ladwig, Marion C.	01-17-1966
37.	Leff, Arthur	05-13-1944•
38.	Libbin, Louis	04-20-1954
39.	Lieberman, Alvin	01-17-1966
40.	Lipton, Benjamin	09-26-1961
41.	Maher, Thomas F.	05-11-1959
42.	Maller, Abraham H.	04-30-1962
43.	Mullin, Robert E.	12-12-1949
44.	Myatt, Gordon J.	01-17-1966
45.	Nachman, Joseph I.	04-16-1962
46.	Ohlbaum, Stanley N.	06-30-1963
47.	Peterson, Ivar H.	12-03-1962
48.	Plaine, Herzel H. E.	07-15-1965
49.	Pollack, Melvin	02-28-1966

e4-16-1951

50.	Powell, George L.	02-11-1959	
51.	Reel, Frederick U.	10-02-1961	
52.	Ricci, Thomas A.	06-15-1958	
53.	Rosenberg, Max	01-14-1964	
54.	Ross, Samuel	06-15-1958	
55.	Saunders, Phil W.	04-15-1959	
56.	Scharnikow, William F.	05-12-1945	
57.	Schlezingher, Anne (Freeling)	06-07-1968	
58.	Schneider, Charles W.	10-12-1942	
59.	Seff, Bernard J.	06-24-1968	
60.	Sherman, Sidney	04-19-1960	
61.	Silberman, Herbert	04-27-1953≡	e1-14-1964
62.	Singer, Samuel M.	06-11-1962	
63.	Somers, A. Norman	09-27-1954	
64.	Stone, Jerry B.	05-01-1962	
65.	Summers, Harold X.	10-16-1961	
66.	Theeman, Benjamin A.	05-31-1968	
67.	Turitz, George	02-28-1966	
68.	von Rohr, John P.	01-11-1960	
69.	Vose, Owsley	06-18-1959	
70.	Waks, Mickey	06-07-1968	
71.	Weil, Paul E.	01-17-1966	
72.	Wilson, E. Don	10-16-1961	
73.	Wilson, Thomas S.	08-01-1938≡	e2-1-1940
74.	Winkler, Ralph	04-03-1950•	e5-25-1960

SAN FRANCISCO OFFICE

1.	Alexandre, Maurice	06-06-1966	
2.	Barker, James T.	10-02-1961	
3.	Bennett, Martin S.	10-07-1944	
4.	Christensen, George	02-28-1966	
5.	Corenman, Herman	06-17-1968	
6.	Davis, David E.	01-17-1966	
7.	Gilbert, Stanley	04-25-1960	
8.	Hemingway, James R.	02-01-1943≠	
9.	Kennedy, Eugene K.	02-24-1959	
10.	Lightner, Leo F.	03-09-1959	
11.	Marx, Herman	10-04-1948	
12.	Miller, Maurice M.	04-07-1945	
13.	O'Brien, George H.	06-17-1968	
14.	Penfield, Louis S.	12-10-1962	
15.	Piper, Robert L.	11-01-1948≡	e5-30-1965
16.	Rogosin, Irving	06-01-1944≡	e1-14-64
17.	Sahm, Henry S.	01-26-1953	
18.	Sinsheimer, Allen Jr.	02-23-1966	
19.	Taplitz, Richard D.	06-17-1968	
20.	Webster, James R.	01-14-1964	
21.	Wilson, E. Don	10-16-1961	

NOTE

Not all regular-staff judges who served at some point during the 1960s and 1970s are included on the forgoing rosters. This is so because their term of service in the Division began and ended between the dates of the closest rosters.

As noted much earlier in the Acknowledgements section, Anna Marie Wehausen, ably assisted by Carletta Davidson, found many of the missing names and included them for an early preliminary draft of this paper. Thus, names such as Judge Irving Herman (EOD 7-3-1972), who arrived after the 1970 roster, and left before the March 1981 list, set forth just below, are included on the ABC List as a result of their efforts in going through Division files.

One of the names on the ABC List belongs to a judge, Henry L. Segal (EOD 12-1-1971[⊃]), who arrived at the Division during these years, yet his EOD date is marked with the symbol **●**. This is to indicate that his presence was discovered as a result of the process of turning pages in the bound volumes of the Board's decisions.

On most of the bound volumes of Board decisions, listings for Agency officials are shown at page iii of each volume. Henry L. Segal is shown designated as Chief Counsel for Board Member John A. Penello, with the latter having been appointed, per footnote 1, on 2-22-1972. See 195 NLRB at iii. Presumably, Segal had been on the staff of one of the other Board members, and moved up to the Chief Counsel's position for Member Penello. Segal continued as Penello's Chief Counsel until Penello resigned 1-14-1981 (254 NLRB iii, fn. 1), remained listed even with Penello gone (256 NLRB iii), and retired 9-11-1981 (258 NLRB iii, fn. 1) still apparently on the staff of one of the remaining Board members.

It appears that Judge Segal presided at only one reported case, that case being reported at 202 NLRB 614 (3-21-1973) (trial opened 12-14-1971; JD issued 1-26-1972). In light of these circumstances, his EOD date is deemed to be December 1, 1972, and is marked with the symbol [⊃]. Thus, Judge Segal's service came between the roster of June 30, 1970 and the next available one, that being the one of March 1981.

10. The Division Roster of March 1981

The March 1981 roster reflects a tenure stability of the judges that is discussed later, under the topic for Turnover in the Early Years. Thus, this list is essentially that which appears on the actual list, including the EOD dates, although as reproduced here the names are mostly full and are in ABC order. Although several names are crossed out on the original, that appears to have been done later as the judges retired or otherwise left the Division. An example of the latter is Judge David McDonald's (SF) departure to become a Bankruptcy Judge.

Only one EOD date is shown on the original, as here, with notations, that being for Judge Myatt of the SF office. Note that his original EOD, of 1-16-1966 (a Sunday), is 1 day earlier than shown on the 1970 list. As Judge Myatt was returning, it appears, from service as a judge with the Department of Labor, personnel documents normally would show the transfer from another Federal agency as effective at the beginning of a pay period, which always falls

on a Sunday. His actual EOD date clearly would have been on Monday, January 17, as it was with several others who arrived that date, including Judge Marion Ladwig. [This is not to say that Division policy or practice always follows, or even usually follows, payroll data in fixing EOD dates. The impression here is that EOD dates are set by the Division as scheduled arrival dates, and should not be confused with payroll dates.] The arrangement on the original list of placing the new EOD date off to the side, as if informational, is a throwback to the 1957 list. In any event, consistent with the purpose of this paper, the EOD date remains here as on the original, 1-16-1966, marked with the symbol \equiv , with an “e” inserted here before what normally would be the new Division-assigned EOD date, that being 5-1-1977.

This note respecting the name spellings of two of the SF judges. Although not so on the original of the March 1981 roster, on all subsequent rosters Judge James Kennedy’s name is followed by the suffix, “III.” Note, however, that the suffix does not appear in Judge Kennedy’s decisions, as may be seen in cases such as the one reported at 337 NLRB 887 (2002). It is the same person. Similarly, Judge Joan Wieder’s name is misspelled on some of the rosters, including the original of this 1981 roster, as “Weider.” Other rosters conform to the way all her decisions (such as 330 NLRB 1409 (2000)) spell her name, that being “Wieder,” the rendition used in this paper.

On the actual March 1981 roster, only the surnames are given (their full names are shown here). On the actual 1983 alphabetical roster (although only the new arrivals are listed below for the 1983 list), apparent full names are given. On the actual 1983 roster Judge O’Meara’s full name is listed as: Joseph J. O’Meara Jr. But in his decisions, such as the one at 261 NLRB 888 (1982), his name is rendered as James J. O’Meara Jr. Similarly, on the actual 1983 rosters, and other subsequent actual rosters, the name of Judge Stephen J. Gross is listed without the middle initial that he used in his decisions. Likewise, on all the rosters the name of Judge Wallace H. Nations appears with the middle initial of “A” rather than the “H” that he uses in his decisions. For Judges O’Meara, Gross, and Nations, their names are rendered in this paper as they appear in their decisions. Notations such as this are made here simply to aid in identification clarification that might prove helpful in future years.

At the New York office, a note on the actual list, following Judge Arthur Herman’s name and EOD date, is not reproduced. It states, “(Previous 29-day ALJ stint with DC).” It is assumed here that such note is merely informational, and that the EOD date shown is the date he arrived at the Division, and not a suggestion that his EOD date is misstated by 29 days. Indeed, the lists in this paper reflect Division seniority (and original EOD date), not Branch Office seniority. Judge Thomas Trunkes’ May 1981 arrival at the NY office is actually anticipated, for the list predates his presence there. The list, with a total of 111 named judges and EOD dates, follows:

The Division's Roster of March 1981		
WASHINGTON, D.C. OFFICE		
1.	Barban, Sidney J.	01-18-1965
2.	Benard, Mary E.	11-23-1980
3.	Bernard, Harold Jr.	04-08-1979
4.	Bracken, Thomas E.	01-06-1975
5.	Buschmann, Karl	09-28-1975
6.	Cohn, Robert	01-18-1965
7.	Davidson, David S.	04-19-1965
8.	Denison, Richard L.	03-25-1974
9.	Donnelly, Peter E.	05-01-1974
10.	Dyer, John M.	02-28-1966
11.	Evans, David L.	07-30-1978
12.	Fitzpatrick, James L.	06-07-1968
13.	Gadsden, Elbert D.	06-11-1973
14.	Gershuny, William	06-13-1980
15.	Giannasi, Robert A.	05-02-1976
16.	Goerlich, Lowell M.	04-19-1965
17.	Gross, Stephen J. J.	05-20-1979
18.	Harmatz, Joel A.	02-12-1973
19.	Holley, Donald R.	11-21-1976
20.	Itkin, Frank H.	11-29-1971
21.	Jacobs, William	10-05-1975
22.	Jalette, Henry L.	06-07-1968
23.	Johnston, Thomas	11-29-1971
24.	Kaplan, Irwin	01-16-1977
25.	King, Russell Jr.	08-31-1975
26.	Ladwig, Marion C.	01-17-1966
27.	Leiner, Robert	10-05-1975
28.	Lott, Hubert E.	11-16-1980
29.	Maloney, Walter H. Jr.	02-26-1973
30.	McInerney, George	07-03-1977
31.	Miller, John C.	07-03-1977
32.	Miller, Michael O.	01-05-1975
33.	Nasdor, Bruce	04-10-1977
34.	Nations, Wallace H.	01-18-1981
35.	Norman, George	12-19-1976
36.	Ohlbaum, Stanley N.	06-30-1963
37.	O'Meara, James J. Jr.	01-18-1981
38.	Pacht, Arline	05-04-1980
39.	Plaine, Herzel H. E.	07-15-1965
40.	Ricci, Thomas A.	06-15-1958
41.	Ries, Bernard	11-18-1974
42.	Romano, Robert G.	01-02-1977
43.	Rose, James L.	10-05-1975
44.	Roth, Marvin	03-02-1975
45.	Saunders, Phil W.	04-15-1959
46.	Schlesinger, Benjamin	07-18-1978
47.	Schwarzbart, Robert	03-16-1975

48.	Scully, Richard A.	01-18-1981	Chief Judge
49.	Sherman, Nancy	01-23-1972	
50.	Socoloff, Irwin H.	05-02-1976	
51.	Stevenson, Almira	03-05-1972	
52.	Stone, Jerry B.	05-01-1962	
53.	Wagman, Leonard M.	02-12-1973	
54.	Wallace, Robert T.	01-18-1981	
55.	Welles, Melvin J.	07-12-1970	
56.	West, John H.	01-18-1981	
57.	Wilks, Thomas R.	02-01-1976	
58.	Williamson, Charles M.	10-14-1979	
59.	Wolfe, Claude R.	06-20-1976	
60.	Youngblood, James T.	10-13-1975	
61.	Zankel, Norman	01-16-1977	
SAN FRANCISCO OFFICE			
1.	Anderson, Clifford H.	01-02-1980	Left Div. 1-20-1973; returned e5-1-1977
2.	Barker, James T.	10-02-1961	
3.	Bennett, Martin S.	10-07-1944	
4.	Boyce, Richard J.	03-04-1973	
5.	Christensen, George	02-28-1966	
6.	Cohen, Leonard N.	12-24-1978	
7.	Heilbrun, David G.	04-01-1974	
8.	Herzog, Frederick C.	07-01-1979	
9.	Holmes, Roger B.	01-18-1976	
10.	Jenson, James S.	10-01-1972	
11.	Kennedy, Harold A.	02-13-1977	
12.	Kennedy, James M. III	05-30-1976	
13.	Kleiman, Jesse	02-26-1978	
14.	Litvack, Burton	08-13-1979	
15.	McDonald, David P.	04-08-1979	
16.	Miller, Maurice M.	04-07-1945	
17.	Myatt, Gordon J.	01-16-1966≡	
18.	Nelson, Timothy D.	09-05-1978	
19.	Pannier, William J. III	08-12-1974	
20.	Pollack, Jay R.	12-4-1979	
21.	Robbins, Earledean V. S.	3-31-1974	
22.	Shapiro, Jerrold H.	03-05-1972	
23.	Schmidt, William L.	12-03-1979	
24.	Stevens, Russell L.	08-05-1973	
25.	Stevenson, Michael D.	04-20-1979	
26.	Taplitz, Richard D.	06-17-1968	
27.	Wacknov, Gerald A.	07-04-1976	
28.	Wieder, Joan	07-16-1978	

NEW YORK OFFICE		
1.	Bennett, Edwin H.	09-16-1979
2.	Biblowitz, Joel P.	06-01-1980
3.	Cohn, Julius	04-14-1974
4.	Edelman, Howard	12-03-1979
5.	Fish, Steven B.	09-16-1979
6.	Green, Raymond P.	09-16-1979
7.	Herman, Arthur A.	09-16-1979
8.	MacDonald, Eleanor S.	01-07-1980
9.	Morio, Winifred	01-04-1981
10.	Morris, D. Barry	06-15-1980
11.	Morton, James F.	09-16-1979
12.	Snyder, Robert T.	05-04-1980
13.	Trunkes, Thomas T.	05-04-1981
ATLANTA OFFICE		
1.	Batson, Robert C.	04-03-1977
2.	Brandon, Hutton S.	06-08-1977
3.	Cates, William N.	06-01-1980
4.	Cullen, Lawrence W.	11-09-1980
5.	Gritta, Robert A.	08-27-1978
6.	Grossman, Howard I.	05-04-1980
7.	Linton, Richard J.	07-13-1980
8.	McLeod, Philip P.	01-12-1981
9.	Robertson, J. Pargen	11-14-1978

11. The Division Roster of January 27, 1983

Not quite 2 years later, the January 1983 alphabetical roster also has a total of 111 names. The additions and subtractions, as compared with the 1981 list, are as follows:

Retiring or otherwise departing from the DC office were these six judges: Robert Cohn, Henry L. Jalette, John C. Miller, Almira Stevenson, Jerry B. Stone, and Charles M. Williamson.

Similarly, from San Francisco, Martin S. Bennett, Leonard N. Cohen (transferred to the ATL office and is listed there), and David P. McDonald. (McDonald's name actually appears on the 1983 list crossed out. It appears that he departed earlier, but the list was prepared with his name, and then his name was lined through.)

New judges arrived as follows, with their EOD dates drawn from the ABC List. The symbol ≈ is explained in the Preface to the ABC List under the

subsection for the Deeming process, respecting the various symbol numbers. Thus, Judge Pope's EOD date is deemed on the basis there described.

DC Office

	<u>Name</u>	<u>EOD Date</u>	
1.	Alprin, Walter J.	7-26-1981	
2.	Beddow, Richard H. Jr.	7-26-1981	
3.	Charno, Steven M.	9-6-1981	
4.	Kolko, Burton S.	9-6-1981	
5.	Linsky, Martin J.	9-8-1981	
6.	Pope, William A.	9-6-1981~	See Preface

At SF, no new judges. NY received two, Judges Steven Davis and Harold B. Lawrence, both with an EOD date of 7-26-1981. No new judges were assigned to ATL, but that office did receive Judge Leonard Cohen as a transfer from the SF office. Judge Cohen arrived there in April 1981.

The Chief Judge was Melvin J. Welles, with David S. Davidson the Deputy Chief Judge and, at DC, John M. Dyer the Associate Chief Judge. At SF, James T. Barker was the Deputy Chief Judge and William J. Pannier III the Associate Chief Judge. At NY, Edwin Bennett was the Associate Chief Judge, and at ATL the Associate Chief Judge was Hutton Brandon. (Unlike most rosters, this one has inked notations reflecting such designations.)

12. Virginia Beach Conference of September 1985

In September 1985 the Division held a training conference at the Cavalier Hotel in Virginia Beach, Virginia. A group photo and roster of available attendees appears below. Of the 88 persons pictured, 85 are judges:



NOTE: The three persons in the photo who are not judges: Eleanor Harvey, Row C position 1 (General Counsel's Office of Employee Development); Joann McIntosh, Row C position 17 (Judges Division, Administrative Officer); and Chester Cooke, Row D position 15 (Judges Division, Staff Assistant).

The row divisions set forth below follow the pattern shown on the November 1, 1985 "corrected" copy of the Division's roster identifying those in the picture. As one looks at the photo, it is apparent that, after the front row, the other rows are staggered to some extent. It helps to follow the ID path taken if one recognizes some of the faces along the way.

Apparently to keep Row D (the Division's copy gives numbers to the rows but not to the positions) from being too staggered, the Division copy added the final row, that being Row E (Top) here. It starts with Judge David Heilbrun who can be seen above the head of Judge J. Pargen Robertson and between the faces of Judges Stephen Gross and Burton Kolko. Next comes Judge James Morton, just to the left of the second white column, who is seen looking over the right shoulder of Judge Richard Boyce. Then just to the right of the same white column is the tallest judge in the photo, Philip McLeod. Moving all the way over to the next white column, on the left side (as we face the photo), and standing behind and between Chester Cooke and Judge

Giannasi, we see Judge Wallace Nations, and on the right side of the column, Judge John West. (All are DC judges except for those designated otherwise.) Judge Welles is the Chief Judge.

ROW A (Front)

1.	Howard Edelman	NY	11.	Melvin J. Welles	
2.	Harold B. Lawrence	NY	12.	John M. Dyer	
3.	Norman Zankel		13.	William J. Pannier III	SF
4.	Nancy Sherman		14.	Irwin Kaplan	
5.	Eleanor S. McDonald	NY	15.	Steven Davis	NY
6.	Thomas A. Ricci		16.	James M. Kennedy III	SF
7.	Michael O. Miller		17.	Bruce Nasdor	
8.	Edwin A. Bennett	NY	18.	George Christensen	SF
9.	Hutton S. Brandon	A	19.	Julius Cohn	
10.	David S. Davidson				

ROW B

1.	Burton Litvack	SF	12.	Robert T. Snyder	NY
2.	Leonard Wagman		13.	James S. Jenson	SF
3.	Richard J. Linton	A	14.	Richard H. Beddow Jr.	
4.	Thomas E. Bracken		15.	Elbert D. Gadsden	
5.	Gerald A. Wacknov	SF	16.	Frank H. Itkin	
6.	William A. Pope		17.	Irwin H. Socoloff	
7.	Timothy D. Nelson	SF	18.	Clifford H. Anderson	SF
8.	Joan Wieder	SF	19.	Richard D. Taplitz	SF
9.	Mary E. Benard		20.	Hubert E. Lott	
10.	Joel A. Harmatz		21.	Richard A. Scully	
11.	Raymond P. Green	NY	22.	Howard I. Grossman	A

ROW C

1.	Eleanor Harvey		11.	Thomas Johnston	
2.	James L. Rose		12.	Bernard Ries	
3.	D. Barry Morris	NY	13.	Gordon J. Myatt	SF
4.	Robert Leiner		14.	Michael D. Stevenson	SF
5.	Robert A. Gritta	A	15.	William Gershuny	
6.	William Jacobs		16.	Peter E. Donnelly	
7.	Arline Pacht		17.	Joann E. McIntosh	
8.	Earldean V. S. Robbins	SF	18.	William L. Schmidt	SF
9.	William N. Cates	A	19.	Lowell M. Goerlich	
10.	Marvin Roth				

ROW D

1.	Lawrence W. Cullen	A	13.	Marion C. Ladwig	
2.	Harold Bernard Jr.		14.	David L. Evans	
3.	Joel P. Biblowitz	NY	15.	Chester Cooke	
4.	Robert G. Romano		16.	Robert A. Giannasi	
5.	Steven B. Fish	NY	17.	Walter J. Alprin	
6.	Stephen Gross		18.	Russell King Jr.	
7.	J. Pargen Robertson	A	19.	Harold A. Kennedy	SF
8.	Burton S. Kolko		20.	Roger B. Holmes	SF
9.	Richard J. Boyce	SF	21.	Frederick C. Herzog	SF
10.	Robert Schwarzbart		22.	Thomas R. Wilks	
11.	Martin J. Linsky		23.	George McInerny	
12.	Karl Buschmann				

ROW E (Top)

1.	David G. Heilbrun	SF	4.	Wallace A. Nations	
2.	James F. Morton	NY	5.	John H. West	
3.	Philip P. McLeod	A			

FURTHER NOTE: Respecting Judge Mary Ellen R. Benard (EOD 11-23-1980), listed above for row B, position 9, sometime after this conference, she married. Thereafter, she switched from using her maiden name of Benard in her decisions (as at 287 NLRB 1299; JD 5-8-1986) to her married name of Bittner (as given at 287 NLRB 796; JD 4-3-1987). Before the January 1992 Judges Roster, reproduced below, Judge Mary Ellen R. Bittner left the Agency for a judge's position in another Federal agency. Because her name of "Benard" appears above and on the March 1981 roster, given earlier, in the ABC and EOD lists that conclude this paper, that name is still shown for her, but with her married name of "Bittner" following in parentheses.

13. Ellenville Conference of May 1990

The next conference conducted by the Division was held in Ellenville, New York in May 1990. As reflected by the January 1992 Division Roster, the staff of judges was down to 81 — 44 in DC, 18 in SF, 11 in NY, and 8 in ATL. A group photo and roster of available attendees appears below. Of the 60 persons pictured, 53 are judges:



NOTE: The seven attendees not judges are: Chester B. Cooke, row A, position 1 (Staff Assistant, NLRB Judges Division); Samuel M. Kaynard, row C, position 2 (Regional Director (retired) of NLRB Region 29, Brooklyn, New York); Mary M. Cracraft, row C, position 8 (Board Member); John C. Truesdale, row C, position 9 (NLRB Executive Secretary); Franklin Moss, row C, position 11 (tentative identification; an attorney representing labor); John E. Higgins Jr., row C, position 12 (NLRB Solicitor); and Eleanor Harvey, row D, position 1 (General Counsel's Office of Employee Development).

Respecting the guests Samuel Kaynard and Franklin Moss, Ellie Harvey reports that the training sessions had a panel that "starred" Sam Kaynard representing management's perspective, and Franklin Moss, a labor attorney, representing labor's perspective. [And such is reflected in the printed Agenda for the conference.] She thinks that this is Franklin Moss, although she cannot be certain. Judge Welles is the Chief Judge. In the September 2000 issue of the Agency's *All Aboard* newsletter, at 7, there is an article about Sam Kaynard, with his photograph. Sadly, as the article reports, Sam Kaynard passed away in September 1997.

ROW A (Top)

- | | |
|---------------------|--------------------------|
| 1. Chester B. Cooke | 8. Raymond P. Green |
| 2. Steven B. Fish | 9. Richard H. Beddow Jr. |
| 3. Howard Edelman | 10. Harold Bernard Jr. |

- | | | | |
|----|--------------------|-----|--------------------|
| 4. | Robert T. Snyder | 11. | Joel A. Harmatz |
| 5. | William L. Schmidt | 12. | Lowell M. Goerlich |
| 6. | James F. Morton | 13. | Joel P. Biblowitz |
| 7. | Timothy D. Nelson | | |

ROW B

- | | | | |
|-----|----------------------|-----|----------------------|
| 1. | David L. Evans | 11. | Nancy Sherman |
| 2. | Marion C. Ladwig | 12. | Irwin Kaplan |
| 3. | D. Barry Morris | 13. | Eleanor S. MacDonald |
| 4. | J. Pargen Robertson | 14. | Steven Davis |
| 5. | William A. Pope | 15. | Michael O. Miller |
| 6. | Stephen Gross | 16. | Jay R. Pollack |
| 7. | Joan Wieder | 17. | Howard I. Grossman |
| 8. | Gerald A. Wacknov | 18. | Lawrence W. Cullen |
| 9. | Clifford H. Anderson | 19. | Robert C. Romano |
| 10. | Norman Zankel | 20. | Philip P. McLeod |

ROW C

- | | | | |
|----|-----------------------|-----|---------------------|
| 1. | Marvin Roth | 8. | Mary M. Cracraft |
| 2. | Samuel M. Kaynard | 9. | John C. Truesdale |
| 3. | Edwin H. Bennett | 10. | William N. Cates |
| 4. | John M. Dyer | 11. | Franklin Moss |
| 5. | David S. Davidson | 12. | John E. Higgins Jr. |
| 6. | Earldean V.S. Robbins | 13. | Donald R. Holley |
| 7. | Melvin J. Welles | 14. | Martin J. Linsky |

ROW D

- | | | | |
|----|--------------------|-----|----------------------|
| 1. | Ellie Harvey | 8. | Karl Buschmann |
| 2. | Robert Schwarzbart | 9. | Peter E. Donnelly |
| 3. | Russell King Jr. | 10. | James M. Kennedy III |
| 4. | Robert A. Giannasi | 11. | Robert T. Wallace |
| 5. | Wallace H. Nations | 12. | Richard J. Linton |
| 6. | David G. Heilbrun | 13. | Benjamin Schlesinger |
| 7. | James L. Rose | | |

And here is a cropped version of a photo, taken at the same conference, of the Chiefs (Chief Judge Mel Welles and Deputy Chief Judge Dave Davidson) with the “foot soldiers” who put it all together: Conference Coordinator Ellie Harvey; Judge Robert Giannasi who served as Coordinator for the judges and who worked directly with Ellie; and Staff Assistant Chester Cooke. Sadly, Chester Cooke died on August 17, 1998, at the young age of 50.

An “In Memoriam” article on his passing appears in the September 1998 issue [Vol. 5 #2] at 4, of *All Aboard*.



14. The Division Roster of January 1992

Responding to the lower caseload, the Division fortunately, and skillfully, avoided the layoffs seen in earlier years by refraining from hiring new judges and letting normal attrition reduce the staff numbers. By January 1992, the Division’s staff was down to 81 judges (44 at DC; 18 at SF; 11 at NY; and 8 at ATL). Since the roster of January 17, 1983, the Division had lost 30 judges, with none hired (at least, none that made it to the January 1992 roster). Of the 30 lost to retirement, death, or in some other way, 17 had been with DC; 6 with SF (plus one, Judge Jesse Kleiman, who transferred to NY); 5 with NY; and 2 with ATL (one being from the untimely death of Judge Leonard N. Cohen). As shown on the Division’s alphabetical roster (no EOD dates) of January 1992, the remaining 81 named judges were:

The Division Roster of January 1992			
Washington, DC Office			
1.	Beddow, Richard H. Jr.	23.	Maloney, Walter H. Jr.
2.	Bernard, Harold Jr.	24.	McInerny, George
3.	Buschmann, Karl	25.	Miller, Michael O.
4.	Charno, Stephen M.	26.	Nasdor, Bruce
5.	Davidson, David S.	27.	Nations, Wallace H.
6.	Donnelly, Peter E.	28.	Pacht, Arline
7.	Dyer, John M.	29.	Pope, William A.
8.	Evans, David L.	30.	Ries, Bernard
9.	Gadsden, Elbert D.	31.	Romano, Robert G.
10.	Giannasi, Robert A.	32.	Rose, James

11. Goerlich, Lowell M.	33. Roth, Marvin
12. Gross, Stephen J.	34. Schlesinger, Benjamin
13. Harmatz, Joel A.	35. Schwarzbart, Robert
14. Holley, Donald R.	36. Scully, Richard A.
15. Itkin, Frank H.	37. Sherman, Nancy
16. Jacobs, William	38. Socoloff, Irwin H.
17. Kaplan, Irwin	39. Wagman, Leonard M.
18. King, Russell Jr.	40. Wallace, Robert T.
19. Ladwig, Marion C.	41. Welles, Melvin J.
20. Leiner, Robert	42. West, John H.
21. Linsky, Martin J.	43. Wilks, Thomas R.
22. Lott, Hubert E.	44. Wolfe, Claude R.

San Francisco Office	
1. Anderson, Clifford H.	10. Nelson, Timothy D.
2. Boyce, Richard J.	11. Pannier, William J. III
3. Christensen, George	12. Pollack, Jay R.
4. Heilbrun, David G.	13. Robbins, Earledean V. S.
5. Herzog, Frederick C.	14. Schmidt, William L.
6. Jenson, James S.	15. Shapiro, Jerrold H.
7. Kennedy, James M. III	16. Stevenson, Michael D.
8. Litvack, Burton	17. Wacknov, Gerald A.
9. Myatt, Gordon J.	18. Wieder, Joan
New York Office	Atlanta Office
1. Bennett, Edwin H.	1. Batson, Robert C.
2. Biblowitz, Joel P.	2. Cates, William N.
3. Davis, Steven	3. Cullen, Lawrence W.
4. Edelman, Howard	4. Gritta, Robert A.
5. Fish, Steven B.	5. Grossman, Howard I.
6. Green, Raymond P.	6. Linton, Richard J.
7. Kleiman, Jesse	7. McLeod, Philip P.
8. MacDonald, Eleanor S.	8. Robertson, J. Pargen
9. Morris, D. Barry	
10. Morton, James F.	
11. Snyder, Robert T.	

15. The Division Roster of March 1999

On this roster, as shown here, we see that the number of the Division's judges is at the new level of 58. On the original copy, however, the total is 60. The difference is that the original, apparently for internal administrative information, has included two judges whose arrival is anticipated (Judges Paul Bogas and Jane Vandeventer), and also included the future retirement dates (for the year 2000) of two, Judges Stephen Gross and Robert Wallace. That data is not reproduced on the copy below. The actual roster does not show the EOD dates. The latter are included below.

Judge Steven M. Charno first appears as a DC judge on the January 1983 roster and again in the 1992 roster just above. He transferred to the SF office in December 1997, and is included as a SF judge on the roster of May 1999 (not reproduced in this paper), but is not included on the original of this March 1999 roster. He is included on the version here under the SF office. He retired 12-31-1999. At times the rosters do not give the middle initial or suffix for a name. For example, the actual March 1999 roster renders it "James Rose" without the middle initial that he uses on his decisions. The latter is shown here, and on the ABC List later in this paper. Similarly as to Judge Earl E. Shamwell Jr.

Finally, this roster marks the beginning of a reasonably frequent supply of Division rosters, at least in terms of copies that have been preserved. Stated differently, beginning with this roster, the frequency of the rosters hereafter, and their preservation, makes it unlikely that any new judges can arrive and leave without his or her name appearing on at least one roster.

The Division Roster of March 1999		
Washington, DC Office		
	Name	EOD Date
1.	Aleman, George	1-22-1995
2.	Amchan, Arthur	9-1-1996
3.	Beddow, Richard H. Jr.	7-26-1981
4.	Buschmann, Karl	9-28-1975
5.	Evans, David L.	7-3-1978
6.	Fine, Eric M.	3-29-1999
7.	Giannasi, Robert A.	5-2-1976
8.	Gross, Stephen J.	5-20-1979
9.	Hermele, Jerry M.	5-25-1997
10.	Kern, Margaret	1-5-1997
11.	Kocol, William	9-15-1996
12.	Ladwig, Marion C.	1-17-1966
13.	Linsky, Martin J.	9-8-1981

14.	Miserendino, C. Richard	9-1-1996
15.	Nations, Wallace H.	1-18-1981
16.	Pannier, William J. III	8-12-1974
17.	Rose, James L.	10-5-1975
18.	Rosenstein, Bruce D.	1-5-1997
19.	Schlesinger, Benjamin	7-18-1978
20.	Schwarzbart, Robert M.	3-16-1975
21.	Scully, Richard A.	1-18-1981
22.	Shamwell, Earl E. Jr.	1-19-1997
23.	Sherman, Nancy M.	1-23-1972
24.	Socoloff, Irwin H.	5-2-1976
25.	Wagman, Leonard M.	2-12-1973
26.	Wallace, Robert T.	1-18-1981
27.	West, John H.	1-18-1981
28.	Wilks, Thomas R.	2-1-1976

San Francisco Office		
Name		EOD Date
1.	Anderson, Clifford H.	1-2-1980
2.	Charno, Steven M.	9-6-1981
3.	Cracraft, Mary M.	1-22-1995
4.	Herzog, Frederick C.	7-1-1979
5.	Kennedy, James M. III	5-30-1976
6.	Litvack, Burton	8-13-1979
7.	Metz, Albert A.	1-22-1995
8.	Nelson, Timothy D.	9-5-1978
9.	Pollack, Jay R.	12-4-1979
10.	Schmidt, William L.	12-3-1979
11.	Stevenson, Michael D.	4-20-1979
12.	Wacknov, Gerald A.	7-14-1976
13.	Wieder, Joan	7-16-1978

New York Office		Atlanta Office	
Name	EOD Date	Name	EOD Date
1. Biblowitz, Joel P.	6-1-1980	1. Carson, George	9-1-1996
2. Davis, Steven	7-26-1981	2. Cates, William N.	6-1-1980
3. Edelman, Howard	12-3-1979	3. Cullen, Lawrence W.	11-9-1980
4. Fish, Steven B.	9-16-1979	4. Grossman, Howard I.	5-4-1980
5. Green, Raymond P.	9-16-1979	5. Linton, Richard J.	7-13-1980
6. Kleiman, Jesse	2-26-1978	6. Locke, Keltner	1-19-1997
7. MacDonald, Eleanor S.	1-7-1980	7. McLeod, Philip P.	1-12-1981
8. Marcionese, Michael	2-2-1997	8. Robertson, J. Pargen	11-14-1978
9. Morris, D. Barry	6-15-1980		

16. Reno Conference of May 2000

Following the Ellenville conference, the next training conference conducted by the Division was held in Reno, Nevada in May 2000. The May 1999 Division Roster reflects a staff of 59 judges (28 in DC, 13 in SF, 10 in NY, and 8 in ATL). Toward the close of the conference, a group photo was taken. Of the 56 persons in the photo, 53 are judges.

Robert A. Giannasi was the Chief Judge. A copy of the photo appears below (courtesy of DeCapua's Photography of Reno, Nevada):



IDS OF JUDGES IN GROUP PHOTO AT RENO CONFERENCE OF MAY 2000

(Because some rows of judges were in a staggered formation, the ID process here sometimes follows an up/down sequence. IDs are left to right. Three are not judges, with “Ellie” in the bottom row being Eleanor Harvey, the project coordinator from the General Counsel’s Office of Employee Development, or OED.) Judge Giannasi is the Chief Judge.

TOP TWO ROWS

1. Metz Fine Wieder McLeod Rose Shamwell Evans Schwarzbart
Cates Wagman Green Cracraft Herzog Kennedy Nations
Linsky Beddow Ladwig [Elizabeth Francis, Judicial Writing
lecturer] Kocol West

MIDDLE ROW

22. Giannasi Nelson Hermele Bogas Robertson Scully Cullen
Buschmann Carson Grossman Vandeventer

NEXT TO BOTTOM

33. Locke Linton Fish Patton Edelman Miserendino Morris Pollack
Pannier Amchan

BOTTOM ROW

43. Kern Davis MacDonald Sherman Marcionese Aleman Rosenstein
Litvack Stevenson Wacknov Anderson Schmidt Ellie [Mitchell
Wright, with NJC]

As with the names listed in the rows above, names are listed in the following table, across the page, so as to correspond to those in the photo from the top (moving left to right) to the bottom. As stated above, because some rows of judges were in a staggered formation, the ID process sometimes follows an up/down sequence. With the names in the photo so numbered, the first judge in each of the four rows (top two rows grouped as one) becomes:

Judge Metz is 1, Chief Judge Giannasi is 22, Judge Locke is 33, and Judge Kern is 43.

The first number given in the table below is the sequence in the table. Next comes the judge's name, followed by the judge's position number on the ABC list supplied by the NJC. There are 56 persons in the photo, with 53 being judges. The ABC list of the (judge) participants furnished by the college lists the names of the 53 judges, although the names are not numbered.

The three persons in the photo besides the judges are, in position 19, Elizabeth Francis (Judicial Writing teacher), Ellie Harvey in position 55, and, in position 56, Mitchell Wright, the NJC's project manager for the Reno Conference.

TOP TWO ROWS

1. Albert A. Metz	32	2. Eric M. Fine	14
3. Joan Wieder	53	4. Philip P. McLeod	31
5. James Rose	41	6. Earl E. Shamwell Jr.	46
7. David L. Evans	13	8. Robert M. Schwarzbart	44
9. William N. Cates	9	10. Leonard M. Wagman	51
11. Arthur J. Amchan	2	12. Mary Miller Cracraft	12
13. Frederick C. Herzog	20	14. James M. Kennedy III	21
15. Wallace H. Nations	35	16. Martin J. Linsky	25
17. Richard H. Beddow	4	18. Marion C. Ladwig	24
19. Elizabeth Francis	College	20. William G. Kocol	23
21. John H. West	52		

MIDDLE ROW			
22.	Robert A. Giannasi	16	23. Timothy D. Nelson 36
24.	Jerry M. Hermele	19	25. Paul Bogas 5
26.	Pargen Robertson	40	27. Richard A. Scully 45
28.	Lawrence W. Cullen	10	29. Karl H. Buschmann 6
30.	George Carson II	7	31. Howard I. Grossman 18
32.	Jane Vandeventer	49	
NEXT TO BOTTOM			
33.	Keltner W. Locke	28	34. Richard J. Linton 26
35.	Steven Fish	15	36. Thomas M. Patton 38
37.	Howard Edelman	12	38. C. Richard Miserendino 33
39.	D. Barry Morris	34	40. Jay R. Pollack 39
41.	William J. Pannier III	37	42. Arthur J. Amchan 42
BOTTOM ROW			
43.	Margaret M. Kern	22	44. Steven W. Davis 11
45.	Eleanor MacDonald	29	46. Nancy M. Sherman 47
47.	Michael A. Marcionese	30	48. George Aleman 1
49.	Bruce D. Rosenstein	42	50. Burton N. Litvack 27
51.	Michael D. Stevenson	48	52. Gerald A. Wacknov 50
53.	Clifford H. Anderson	3	54. William L. Schmidt 43
55.	Ellie Harvey	OED	56. Mitchell Wright College

17. The Division Roster of September 2001

Comparing the Division rosters of January 1992 (a total of 81 judges) with that of September 2001 (a total of 59 judges), we see, in rather graphic image, the extent of the “changing of the guard,” and not simply because the total number reflects fewer judges. Indeed, the Division even saw a need to hire new judges in the interim: 13 new judges at DC (not counting Judge William Pannier III who, when he moved to Illinois and began working from his home, thereby transferred from SF to DC); Thus, of the 44 named judges in the DC office in 1992, some 70.45 percent (31 judges) are gone by the time of the 2001 roster.

The change is nearly as dramatic at San Francisco. There, 11 of 18 judges, or some 61.11 percent, have departed (including Judge Pannier who transferred to DC), and 6 new judges have arrived (not counting Judge James Rose who transferred to SF from DC). At SF, Judge Lana Parke’s name

includes here (but not on the actual roster), and elsewhere in the paper, her middle initial as she does in her decisions.

At New York the change was not as dramatic, with two leaving and one new judge arriving. Atlanta had a significant change, with two judges retiring and four new judges arriving.

In the roster that follows, EOD dates are shown for the new judges only:

The Division Roster of September 2001		
Washington, DC Office		
Name		EOD Date
1.	Aleman, George	3-7-2000
2.	Amchan, Arthur	
3.	Beddow, Richard H. Jr.	
4.	Bogas, Paul A.	6-4-2001
5.	Buschmann, Karl	
6.	Buxbaum, Paul	7-31-2000
7.	Clark, John T.	
8.	Evans, David L.	12-31-2000
9.	Fine, Eric M.	
10.	Giannasi, Robert A.	
11.	Hermele, Jerry M.	
12.	Kern, Margaret	
13.	Kocol, William	
14.	Ladwig, Marion C.	
15.	Linsky, Martin J.	
16.	Miserendino, C. Richard	
17.	Nations, Wallace H.	
18.	Pannier, William J. III	
19.	Pulcini, Robert A.	
20.	Rosenstein, Bruce D.	
21.	Schlesinger, Benjamin	
22.	Schwarzbart, Robert	
23.	Scully, Richard A.	
24.	Shamwell, Earl E. Jr.	
25.	Socoloff, Irwin H.	
26.	Wagman, Leonard M.	
27.	West, John H.	

San Francisco Office				
Name		EOD Date		
1.	Anderson, Clifford H.	12-31-2000		
2.	Cracraft, Mary M.			
3.	Kennedy, James M. III			
4.	Litvack, Burton			
5.	McCarrick, John J.			
6.	Metz, Albert	6-3-2001		
7.	Meyerson, Gregory Z.	9-5-2000		
8.	Parke, Lana H.	7-4-1999		
9.	Patton, Thomas M.			
10.	Pollack, Jay R.			
11.	Rose, James L.			
12.	Schmidt, William L.			
13.	Stevenson, Michael D.			
14.	Wacknov, Gerald A.			
New York Office		Atlanta Office		
Name	EOD Date	Name	EOD Date	
1.	Biblowitz, Joel P.	1.	Brakebusch, Margaret G. 6-4-2001	
2.	Davis, Steven	2.	Carson, George	
3.	Edelman, Howard	3.	Cates, William N.	
4.	Fish, Steven B.	4.	Cullen, Lawrence W.	
5.	Green, Raymond P.	5.	Linton, Richard J.	
6.	Kleiman, Jesse	6.	Locke, Keltner	
7.	MacDonald, Eleanor S.	7.	McLeod, Philip P.	
8.	Marcionese, Michael	8.	Robertson, J. Pargen	
9.	Morris, D. Barry	9.	Vandeventer, Jane 9-12-1999	

18. At the Third Millennium

Now in the new Millennium, and 2 months after the Division roster of September 2001, after two retirements (one DC judge and one Atlanta judge), the Division roster was down to 57.

After more judges retired, the Division added two judges, Ira Sandron and Mark Rubin, as announced by separate press releases dated 9-19-2002 (R-2459) and 11-6-2002 (R-2463), respectively. The November 6, 2002 press release by the Agency, stated that the appointment of Judge Rubin brought “the number of Board judges to 54 nationwide.” Judge Joseph Gontram arrived on January 13, 2003, with the appointment announced by a press release (R-2472)

dated January 10, 2003. The arrival of Judge Michael Rosas (EOD August 25, 2003) was announced by a September 2, 2003 press release, R-2504.

The press releases for these new judges are posted at the Board's website, www.nlr.gov; click on Press Releases on the left side. At the moment, the Board's revised website has only the current year of press releases in chronological order. For prior years, it usually is necessary to type in a name, press release number, date, or some other identifying key to bring up a specific press release.

19. The Division Roster of March 2004

On the roster that follows (which continues valid through at least late June 2004), we see that the total count for the Division's judges now stands at 51.

The Division Roster of March 2004	
Chief Judge:	Robert A. Giannasi
Deputy Chief Judge:	Richard A. Scully
WASHINGTON, DC OFFICE	
NAME	EOD DATE
1. Aleman, George	1-22-1995
2. Amchan, Arthur	9-1-1996
3. Bogas, Paul A.	3-7-2000
4. Buschmann, Karl	9-28-1975
5. Buxbaum, Paul	6-4-2001
6. Clark, John T.	7-31-2000
7. Evans, David L.	7-3-1978
8. Fine, Eric M.	3-29-1999
9. Giannasi, Robert A.	5-2-1976
10. Gontram, Joseph M.	1-13-2003
11. Kern, Margaret	1-5-1997
12. Kocol, William	9-15-1996
13. Linsky, Martin J.	9-8-1981
14. Miserendino, C. Richard	9-1-1996
15. Nations, Wallace H.	1-18-1981
16. Rosas, Michael A.	8-25-2003
17. Rosenstein, Bruce D.	1-5-1997
18. Rubin, Mark	11-04-2002
19. Sandron, Ira	9-16-2002
20. Schlesinger, Benjamin	7-18-1978
21. Scully, Richard A.	1-18-1981
22. Shamwell, Earl E. Jr.	1-19-1997
23. Vandeventer, Jane	9-12-1999

San Francisco Office			
Associate Chief Judge:		William L. Schmidt	
Name		EOD Date	
1. Anderson, Clifford H.		1-2-1980	
2. Cracraft, Mary M.		1-22-1995	
3. Kennedy, James M. III		5-30-1976	
4. Litvack, Burton		8-13-1979	
5. McCarrick, John J.		12-31-2000	
6. Metz, Albert A.		1-22-1995	
7. Meyerson, Gregory Z.		6-3-2001	
8. Parke, Lana H.		9-5-2000	
9. Patton, Thomas M.		7-4-1999	
10. Pollack, Jay R.		12-4-1979	
11. Rose, James L.		10-5-1975	
12. Schmidt, William L.		12-3-1979	
13. Wacknov, Gerald A.		7-14-1976	
New York Office		Atlanta Office	
Associate Chief Judge:		Associate Chief Judge:	
Joel P. Biblowitz		William N. Cates	
Name	EOD Date	Name	EOD Date
1. Biblowitz, Joel P.	6-1-1980	1. Brakebusch, Margaret G.	6-4-2001
2. Davis, Steven	7-26-1981	2. Carson, George	9-1-1996
3. Edelman, Howard	12-3-1979	3. Cates, William N.	6-1-1980
4. Fish, Steven B.	9-16-1979	4. Cullen, Lawrence W.	11-9-1980
5. Green, Raymond P.	9-16-1979	5. Locke, Keltner	1-19-1997
6. MacDonald, Eleanor S.	1-7-1980	6. Marcionese, Michael	2-2-1997
7. Morris, D. Barry	6-15-1980	7. Robertson, J. Pargen	11-14-1978
		8. West, John H.	1-18-1981

PREFACE TO THE ABC LIST

1. Regular Staff Judges

Only regular-staff judges are named on the ABC list, or on the EOD list (names listed in order of EOD, “Entered on Duty,” by office location), or on the Unified EOD List that appears as the concluding list for this paper.

Other judges are not included. As briefly mentioned early in this paper, through the years, a variety of other judges (“Trial Examiner” was the early classification) have presided at the Board’s unfair labor practice trials. For many of the cases tried during the Board’s first year of operation, so-called “celebrity” judges sometimes presided. As summarized much earlier, these “celebrity” judges ranged from the Board itself to at least one academic and on to other Agency officials.

Very quickly the Board began using “per diem” judges — that is, judges paid by the day rather than by salary as regular government employees. While the Board hired a few regular-staff judges (that is, salaried government employees) during the first couple of years, many of the judges, as discussed earlier, worked on a “per diem” basis. As already noted, the Board closed the per diem practice effective August 1, 1938, deciding to rely instead on regular-staff judges for all cases other than in an emergency need situation.

In 1940, as previously summarized, the Board implemented a policy of gradually shifting the additional work of presiding at representation case hearings from the Judges Division to personnel in the Regional Offices (or, as might be assigned on occasion, attorneys from the General Counsel’s staff in Washington, such as lawyers from the Review Section), with the members of the Division of Judges assigned more and more to unfair labor practice cases almost exclusively. In those years, whoever presided (Division staff judge or someone from the Regional Office involved) at a representation case was designated the “trial examiner.” By the time the Taft-Hartley Act was passed in late June 1947, the Board’s policy in this respect was virtually exclusive, with staff judges occasionally called upon to preside at some of the more complex objections cases that might follow a representation election. For a time after the Administrative Procedure Act became effective in 1946, anyone presiding at a representation hearing was termed the “hearing officer.”

Eventually that was changed to reflect “Trial Examiner” whenever a Division Judge presided.

On no more than a handful of occasions during the early 1940s, and especially during the years of World War 2, someone apparently not from the Division of Judges, but from elsewhere in the Agency (usually the Review Section), presided at a complaint case (unfair labor practice trial). In those years, particularly before the 1946 Administrative Procedure Act and the 1947 Taft-Hartley Act, and perhaps on occasion because of wartime needs, the Board enjoyed more flexibility for such work assignments than it does today. Additionally, however, the impression is imparted that a principal reason a Review Section attorney, for example, served as a temporary judge was for the purpose of giving that attorney some “hands-on” experience in presiding over the types of cases that he regularly worked on back in his office in the Review Section. The names of these temporary judges are listed later in this Preface.

Finally, the Board has used “borrowed” judges (judges on detail from other federal agencies) to preside over unfair labor practice trials. For the most part, this limited practice appears to have been employed at times during the 1970s and into the 1980s, years when the trial docket facing the Division of Judges was especially heavy. (By contrast, in the late 1980s and early 1990s, when the Division’s case load dropped, some of the Division’s judges were loaned to other Federal agencies to help them with their trial dockets while, at the same time, permitting the Division to avoid having to lay off any judges.) So far as is known, no “borrowed” judge’s name appears on either the ABC or the EOD list.

2. List Methodology

For the lists of all the judges, the alphabetical (ABC) list appears first, and later the EOD list. The EOD date (either as reflected on the available rosters or derived for this paper by using a “deeming” process) for the early judges reflects the date that the judge has joined the regular staff of the Division. This choice, of not including the per diem judges who never (so far as presently can be determined) acquired an EOD date by becoming part of the regular staff of judges, is based on the overriding consideration of listing only regular-staff judges. Later in this **Preface** the names of those per diem judges who worked for a short time after August 1, 1938, are included on a list under a section heading for “Honorable Mention.”

The thought here is that virtually all of the regular-staff judges from the 1930s through the 1992 Division roster have been found and are named on the ABC and EOD lists. As summarized much earlier in the Acknowledgements section, the detailed research (that is, inspecting every decision in the bound volumes) for the paper has reached through NLRB Vol. 315, or Board decisions dated in January 1995. Reliance thereafter is based generally on staff

rosters (the next one is dated March 1999, and the rosters after that are reasonably frequent, and preserved), some press releases, and the memories of long-time judges, such as Chief Judge Giannasi.

With judges still aboard who arrived by 1980, it is unlikely that we are overlooking any judges from the 1980s or 1990s. However, if it is discovered that one or more names should be included with the other judges currently named on the ABC list, such corrections will be made with pleasure at the discovery. All regular-staff judges deserve to have their names recorded on the List of Judges. There they will share a place of recognition in our nation's labor history with those who have gone before, and with those who come after, as persons who have served as Division staff trial judges for the National Labor Relations Board.

3. The Deeming Process

Because the emphasis in this List of Judges is on the date that a person first began serving as one of the NLRB's regular-staff judges, rather than on the concept of strict seniority, in this list the original EOD date is used where it has been ascertained (from the available rosters or Division records) or approximated ("deemed"). Similarly, where the original EOD date is a product of the deeming process used in this paper, that deemed date likewise controls (until more accurate data confirm a different date to be the correct one).

The early rosters of the Division of Judges understandably followed a concept of seniority, for seniority may have some bearing on such matters as office location, preference as to a better desk, or similar incidentals. (As noted above, more recent rosters simply name the judges in alphabetical order.) By contrast, here the work has been completed for those who have retired, and for those still on the bench, there are no office locations to be claimed or other incidental preferences to be recognized from one's EOD placement on this List of Judges. In this ABC List of Judges, deemed dates are marked by one of several numerical symbols.

a. Symbol 1

Of the symbols used, this symbol 1 is applied the most, and most of the judges so designated are among the early judges, especially during the late 1930s. (As mentioned earlier, readers wanting to see how this is reflected in print may want to take a quick look at the first 50 or so names on the Unified EOD List, the final list in this paper.) The deeming process has to be used because there simply are no surviving rosters dating from the early years. Symbol 1 is used to reflect the approximate original EOD date as determined by the "deeming" process. Certainly for the early years, the "deeming" process generally refers to the process of inspecting the published decisions in the Board's bound volumes.

The “deemed” (approximated) EOD dates in this list are based on, principally, a review of decisions in the Board's bound volumes. Moreover, by listing some names of the early judges (see the Introduction), Prof. Gross provides some additional support for this process. For example, if a judge appears in the reported decisions as having presided at ULP trials on both sides of August 1, 1938 (the date when the Board's new policy was implemented so as to use only regular-staff judges), then a reasonable approximation of the judge's EOD date would be August 1, 1938 — his “deemed” date for this list. (However, judges who presided no more than two or three times or so after that August 1 are considered as having continued for that short time as per diem judges, and listed in the section below for “Honorable Mention.”)

The deemed date may be off by a few months as to some judges (an inaccurate deemed date will be corrected if better data is located), as would be the case if applied to Judge A. Bruce Hunt (EOD of 3-18-1939, per the roster of 1-10-1957), for his first reported trial, at 13 NLRB 1242, was not until April 1939. Even so, the deeming process appears to be reasonable and a far better choice than that of leaving the EOD date blank. The symbol one ① is used here to signify that the date given is one that is deemed to be correct as a result of this research.

For at least some of the early years, starting with FY 1938, the newer judges usually received training of some 3 to 6 months before they were sent out on their first assignment. This training is described at 4 *NLRB Annual Report* at 151, and is mentioned again at 5 *NLRB Annual Report* 123, fn. 1. Just how long that training program lasted is unclear. As the years rolled by, and those persons brought into the Division came with some, even substantial, experience in ULP cases as the Board's (during the Wagner Act years) trial attorney, or even as an attorney in the Review section (before the Review Section was dissolved by the Taft-Hartley amendments, to be replaced by the legal staffs of the individual Board members), it may be that such training was reduced in time or even abandoned. Certainly it has not been a regular feature in the later years.

As the opening date of the trials moves to 1939 and later (for the apparent first reported trials by a judge), a deemed EOD date beyond that of August 1, 1938, becomes more reasonable. When dates are deemed, the selection process settles on the first day of the month in which the first reported trial is found in the search process. As mentioned earlier, the selection of such date is a compromise offsetting some likely training time, described just above, against possible time serving in a per diem status. (Of course, the search could be faulty, and a trial for one or more judges possibly has been overlooked. Even with the possibility of such error, however, the List of Judges is better off having the judge listed, and with a somewhat erroneous EOD date, than not

having the judge listed at all, or with only a blank EOD date.) As mentioned above, the great majority of EOD symbols assigned are this symbol \supseteq .

b. Symbol 2

The symbol 2 marking an EOD date indicates a judge who has an original Division-assigned EOD date, who left the Division to serve elsewhere in the Agency, and who later returned to the Division. As we see in the examples that follow, the Division adjusts (moves up) the EOD dates of these judges so that such EOD dates reflect only Division seniority.

Judge Ralph Winkler is shown on the January 10, 1957 and the March 7, 1971 rosters (both reproduced in a few pages) with an EOD date of 4-3-1950. Inspection of the books confirms that this is his Division-assigned original EOD date because his first published case of presiding is in April 1950, as reported at 92 NLRB 1. Later, about June 1, 1961, Judge Winkler left the Division to serve for some 10 years as Chief Counsel for Board Member Gerald Brown (appointed 4-14-1961 — 131 NLRB at iii, fn. 1) during Member Brown's two terms. Judge Winkler did not immediately join Member Brown, for the Division alphabetical list of May 29, 1961 (not reproduced in this paper) contains his name. (For some reason, his departure from the Division, apparently about 6-1-1961, is not reflected on the LOS.) Member Brown's second term expired August 27, 1971, as noted at 192 NLRB at iii, fn. 1. As we will saw on the June 30, 1970 roster (reproduced earlier), on his return to the Division (presumably in August 1971), Judge Winkler received an adjusted EOD date of 5-25-1960. (His return EOD is interlined in ink on the June 1970 roster.)

Let us do the arithmetic on this. From Judge Winkler's original EOD date of 4-3-1950 to his apparent departure date of 6-1-1961 shows Division service of almost exactly 11 years 2 months. Backing up that same 11 years 2 months from his presumed return date of August 1971 would yield an adjusted EOD date of June 1960. The actual EOD assigned by the Division on his return, as we have seen, is 5-25-1960. The difference of a few days no doubt is reasonably explained by a departure of a few days later, or a return of a few days earlier, or a little of both. Because, as earlier explained, the primary focus in this paper is on a judge's original EOD date, in this paper Judge Winkler's original EOD date of 4-3-1950 is marked by the symbol \bullet , and his adjusted return EOD date of 5-25-1960 is shown preceded by an "e" to denote a Division-assigned adjusted EOD date.

Another prominent example who fits into this category, but with a twist at the end, is **Judge Arnold Ordman**. His original EOD date is 4-20-1959, as is reflected by the March 1961 roster reproduced earlier. Judge Ordman left the Division to be Chief Counsel for Board Chairman Frank W. McCulloch (appointed 3-7-61 — 130 NLRB at iii, fn. 1), as reflected at 131 NLRB at iii. It

appears that Judge Ordman left for his new position after issuing his June 2, 1961 Intermediate Report in the case reported at 133 NLRB 240 (1961), for the LOS shows that he “resigned” from the Division on 6-9-1961. Less than 2 years later, on May 14, 1963 (142 NLRB 1963), Ordman was appointed the Agency’s General Counsel. After his second of two 4-year terms in that position expired on June 25, 1971 (see Board’s website; click on “About Us”; “General Counsel”; “GC and terms since 1935”), Judge Ordman returned to the Division, as reflected by decisions in the Board’s bound volumes. However, because Judge Ordman retired before the next (available) roster, the March 1981 list also reproduced earlier in this paper, the adjusted EOD date (backing up 2 years from his presumed return of June 1971) that he presumably would have been assigned on his return is not shown. Accordingly, in this paper the only date shown for Judge Ordman is his original 4-20-1959 EOD date, marked by the symbol •, but without any trailing “e” date.

After some 19 years 1 month with the Division, **Judge Arthur Leff**, (original) EOD 5-13-1944 (as shown on the January 1957 roster), succeeded Judge Ordman as Chief Counsel for Chairman McCulloch, apparently in late May or before June 21, 1963, the ending date for the decisions in 142 NLRB. (Judge Leff is shown there, 142 NLRB at iii, as Chairman McCulloch’s Chief Counsel.) When McCulloch’s second term expired on August 27, 1970 (185 NLRB at iii, fn. 1), Judge Leff returned to the Division. He had been gone from the Division for some 7 years and 2 months. As is shown by the June 30, 1970 roster, Judge Leff received an adjusted EOD date (shown by an entry interlined by hand in ink, reflecting that the entry came after the list was typed) of “4-16-51.” Subtracting Judge Leff’s prior Division service of 19 years 1 month from 1970, at 8 months, yields a return month of July 1951, a date within some 3 months of the actual adjusted EOD date, of 4-16-1951, that Judge Leff received on his return. The difference of 3 months suggests that Judge Leff may have left the Division a month or so later, and returned a month or so earlier, than indicated above. In any event, Judge Leff’s original EOD date is marked with the symbol • in this paper, and his Division adjusted EOD date is preceded by an “e.”

Judge William E. Spencer’s EOD date is shown as 11-1-1941 on the January 10, 1957 and March 7, 1961 rosters, but 5-1-1942 on the May 1, 1965 roster. Perhaps he left the Division to serve elsewhere in the Agency for 6 months between the March 1961 and May 1965 lists. (He retired before the June 1970 roster.) Perhaps the later EOD date is the result of a clerical mistake in typing the list. Regardless, in the List of Judges his original EOD date is shown and marked with a •, and the later date is preceded by an “e.”

c. Symbol 3

The symbol 3 marking an EOD date indicates a judge: (1) whose original EOD date is deemed; (2) who left the Division to serve elsewhere in the Agency; and (3) who later returned to the Division.

A prominent and early example of this category involves **Judge Stephen S. Bean**. As seen on the ABC List, Judge Bean has a deemed EOD date of 2-1-1950. The LOS informs us that Judge Bean was appointed to the Board (by President Eisenhower). He left the Division on 11-30-1955 and the next day, 12-1-1955, began serving as a Board member, a position he held through 8-27-1960. He returned to the Division on 8-28-1960. When Judge Bean left the Division, he had Division service of 5 years 10 months. Backing up 5 years 10 months from his return date of 8-28-1960, we arrive at the date of 10-28-1954. Although the LOS does not show EOD dates, for Judge Bean the roster of March 7, 1961, shows an adjusted EOD date of 10-3-1954. The difference of some 3 weeks is minor and no doubt is explained by other circumstances associated with either the departure or return factors, or both.

d. Symbol 4

If the original EOD date is later modified (such as by a mistake in application of policy or practice) by the Division on a subsequent roster, but then restored on a later list, and so left restored on the last roster on which the judge's name appears, then the original EOD date is marked with the symbol ≠ to indicate this category. One judge (perhaps the only one) fitting this category is Judge James H. Hemingway, EOD 2-1-1943≠.

Judge Hemingway's EOD date is shown as 2-1-1943 on the January 10, 1957 roster (with entries listing departures of about 3 months in the mid-1940s to, apparently, the Litigation section of the Agency, and a departure of some seven and a half months in 1952 to the "WSB," presumably the Wage Stabilization Board. Although Judge Hemingway's original EOD date is unchanged on the roster of March 7, 1961, on the May 1, 1965 list his EOD date is adjusted for the time spent at the WSB, but restored on the roster of June 30, 1970. To reflect that the Division on one roster had adjusted his EOD date, and then on a later list had (permanently) restored the original EOD date, Judge Hemingway's original date is listed here and marked with the symbol ≠.

e. Symbol 5

If a judge left the Agency to enter private practice, or for another Federal agency, then on his return he generally has received a new EOD date matching his return date, as shown in the examples below involving Judges Ruckel, Seagle, and Silberman. For example, Judge Robert L. Piper has a deemed original EOD date of 11-1-1948. Per the LOS, he left the Agency on

10-25-1955, transferring to the Federal Trade Commission (FTC). As reflected by the June 30, 1970 roster, Judge Piper later returned to the Division, receiving an EOD date of 5-30-1965, just missing the list of 5-1-1965. Because Judge Piper's resumption of presiding began barely a week later, on June 8 (156 NLRB 684), it seems clear that he received no credit for his earlier Division service, and that the new EOD date of 5-30-1955 matches his return date. Accordingly, Judge Piper's original EOD date of 11-1-1948 is marked with a \equiv , and an "e" precedes the trailing EOD date of e5-30-1965.

Similarly, Judge Irving Rogosin, as discussed earlier at the May 1, 1965 roster, also has his deemed original EOD date marked with a \equiv , and the trailing "e" EOD date of 1-14-1964 matches his return date from, apparently, private practice, with no credit for his earlier Division service.

Judge Horace A. Ruckel's deemed EOD date of August 1, 1938, is marked with a ⑤. His EOD date is so deemed because he presided on both sides of that date. Per the LOS he left on January 2, 1954, and was reinstated on August 2, 1961. Although the latter date, per the roster of May 1, 1965, was assigned by the Division as Judge Ruckel's new EOD date, for the List of Judges his earlier deemed EOD date is used, as is indicated by the symbol ⑤.

Respecting those judges who left the Agency and later returned to the Division, there have been a few inconsistencies in the EOD date used. (This is probably an oversight or two rather than a change in policy, or simply the result of different personnel processing the papers.) For example, on the roster of January 10, 1957, a half dozen judges (from a total of 45) left the Division (most during the 1940s) and later returned. Aside from those who served in some capacity related to the national defense (and they, as previously noted, generally, it seems, were treated as returning military veterans), three (Eugene E. Dixon, John H. Eadie, and Thomas S. Wilson) apparently left for private practice and then returned. All on the 1957 list are shown with their original EOD date on returning, although the dates of absence are also shown. (Judge Thomas S. Wilson's EOD date is discussed in more detail earlier at the 1965 roster.)

As noted earlier at the Division list of March 1981, Judge Gordon J. Myatt, who left the Agency on 1-20-1973, and later returned on 5-1-1977, is shown on the 1981 roster with his original EOD date, followed by the other data. (Although the 1981 list states that Judge Myatt left the Division in 1973, other evidence (the memory of one judge) discloses that he left to serve as a judge with the U.S. Department of Labor, and returned to the Division in 1977.) In any event, for this paper Judge Myatt's original EOD date is the primary listing, marked by the symbol \equiv , followed by the trailing EOD date of e5-1-1977.

f. Symbol 6

For fewer than a handful of judges, the only available record of their EOD date is a copy of the Board's press release, other published announcement, or Division record, that such persons had been appointed as NLRB judges. Sometimes the actual EOD date may predate the announcement by several weeks. The choice made for the List of Judges has been to specify the first day, ordinarily, of the month in which the announcement was published as the deemed EOD date. This small group is assigned its own symbol of ⑥ rather than a ❶ to reflect its separate category. For example, a Board press release dated October 11, 1979, announced the appointment of C. Dale Stout as an Administrative Law Judge to be stationed in the Washington office. Therefore, Judge Stout is assigned the deemed EOD date of 10-01-1979, and that deemed date is marked with the symbol ⑥. As Chief Judge Davidson (retired) recalls, Judge Stout died soon after his arrival at the Division.

Similarly, although Judge William A. Pope's name appears in a December 1, 1981 Board press release, his EOD date, also marked with a ⑥, is set at 9-6-1981 because two other judges (Judges Charno and Kolko), also named in the announcement, have that EOD date.

g. Symbol 7

One judge fits in this category — James T. Rasbury. When data was being gathered early in the research for this paper, among the date gaps completed by the Division office, as described at the beginning of the paper under the section, **Acknowledgements**, was Judge Rasbury's EOD date, transmitted as 2-12-1957. It appears that the year should be "1959," for the publication showing his first trial as a presiding judge had for its opening (and only) date — March 3, 1959, in the case of *Tallapoosa River Electric Cooperative*, 124 NLRB 474 (8-13-1959). It seems quite likely that Judge Rasbury arrived at the Division about 3 weeks or so earlier, on February 12.

When deeming dates for this paper, the policy, as mentioned several times, is to go back no further than the first day of the month in which the first trial was held for that judge. However, that policy is not applicable here because this paper is not deeming a date for Judge Rasbury. This paper is merely correcting what appears to be an error in recording, either on the original Division record, or in copying that EOD year to the Internet transmission of the data. Accordingly, Judge Rasbury's EOD date is shown on the ABC and the EOD lists as a Division assigned date, with the correction of the year indicated by the symbol ∠. As discussed earlier at the 1965 list, Judge Rasbury, one of five judges named on the LOS who left the Agency (but later returned to the Division), presumably would have received a new EOD date on his return in the 1970s. (None is available because his return and eventual retirement fell between the 1970 and 1981 rosters.) Such a presumed EOD date

would have been preceded by an “e,” and, normally, his original EOD date would have been marked with the symbol \equiv .

h. Symbol 8

One judge, David Karasick, fits this category which is reserved for judges who left the Division for some other position in the Agency and later returned, but at their return they received brand new EOD dates (as if they had left the Agency for private practice) rather than having their EOD dates adjusted to receive credit for prior service in the Division.

Judge Karasick, who began presiding in July 1943, presided over trials for about 17 months. Then, as noted below under the topic for Short Term Judges, he transferred to NLRB Region 8, Detroit, and later to Region 20, San Francisco. Eventually, in 1962, he returned to the Division for a couple of years or so before he left again. At his 1962 return, Judge Karasick received a new EOD date, matching his return date, and not adjusted to credit his earlier service. His deemed original EOD date is marked with the symbol $|$, and his 1962 Division assigned EOD date is preceded by an “e.”

4. Some Mysteries Solved

a. Judge William Seagle

The process of clarifying the EOD date sometimes clears up what otherwise might be a mystery. For example, was there more than one Judge William Seagle? Decisions in the 1930s show a Judge William Seagle at that time (and he is one of the early judges mentioned by Prof. Gross — see the Introduction at “Some early-day Judges) — and a Judge William Seagle appears on the March 7, 1961 roster with an EOD date of April 25, 1960. Could the second one possibly have been the son of the first? Or at least an unrelated person? No, for the latter list also gives the birth dates, and his is shown as January 14, 1898. Moreover, a May 29, 1961 alphabetical list of the judges gives their service computation dates, and this list shows Judge William Seagle with a service computation date of September 1, 1937. Thus, the conclusion for this list is that there was only one William Seagle who served as an NLRB Judge.

In this paper, Judge Seagle is assigned a deemed EOD date of April 1, 1937, the month of his first trial or hearing. Why not September 1, 1937, his service computation date? Does that date suggest that anything before then was as a per diem judge? On the other hand, did per diem service count in figuring the service computation date? Problem is, service computation dates can involve other matters to be considered (such as Federal service in another Federal agency or in the military) that are not available for evaluation here. For example, Judge William Ringer’s service computation date is shown as June 1, 1937, and we have seen that he started presiding in May 1937, yet his Division

EOD date is not until October 1, 1937. If we were to go by service computation dates, then Judge Ringer's EOD date would have to be moved back to just about the time he started presiding. Whether the correct procedure or not, in this paper the service computation date is not used.

In any event, clearly at some point before July 1, 1949 (the starting date for the 12-year period covered by the LOS), Judge Seagle left the Agency. Although this could have been in July 1939, following his last reported hearing (a representation hearing) in that month, as earlier discussed, since he testified before Congress in early 1940, it is assumed for this paper that he did not leave the Division until immediately after his Congressional testimony. He then, it appears, returned to the Division some 20 years later, on April 25, 1960. Thus, his deemed EOD date of April 1, 1937, in this List of Judges is marked with a ⑤.

b. Judge Herbert Silberman

Judge Herbert Silberman has a similar situation to Judge Seagle. Thus, a Judge Silberman appears on the roster of January 10, 1957, with an EOD date of 4-27-1953, and the LOS reflects that a Judge Herbert Silberman (no EOD date given) resigned on 2-13-1960. Then, on the roster of June 30, 1970 (and an earlier list of May 1, 1965), a Judge Silberman is shown with an EOD date of 1-14-1964. He apparently retired before the list of March 1981, for he is not named there. The "clincher" comes from former Chief Judge Davidson, now retired, who recalls that Judge Herbert Silberman left the Division for private practice and later returned. Thus, for this list, Judge Herbert Silberman is assigned his original EOD date of 4-27-1953 (rather than the Division assigned return date as the EOD), and that original EOD date is marked with the symbol ≡. In a single case, Judge Silberman, and the Board, give his middle initial: "M." The case is reported at 223 NLRB 709 (1976).

c. Judges James Fitzpatrick

For those who might wonder whether some mistake has been made respecting the name or EOD date of the two Judges Fitzpatrick, rest at ease. Chief Judge Giannasi recalls that Judge James J. (who died, per the LOS, on 1-22-1953) was the father, and that Judge James L. (who died after retiring in the early 1980s) was the son. The elder Fitzpatrick had trials on both sides of August 1, 1938 (as the Board's bound volumes reflect), and as earlier noted for the reconstructed rosters, his deemed EOD date of December 1, 1937, is marked with the symbol ①.

d. Judge Vincent M. Rotolo

In the later 1940s, Vincent Rotolo was a staff attorney with Region 2, New York. Apparently an "old timer" at Region 24, Ms. Chastity Pabon (Regional Director Marta Figueroa searched for someone who would know the

answer), who later transferred to Region 12, advises that Vincent M. Rotolo arrived at the Region about 1950, and later became the Regional Attorney there. Region 24's current Regional Attorney, Efrain Rivera-Vega (thanks again to Ms. Figueroa for finding someone with additional information), confirms Ms. Pabon's information.

Research has resulted in a deemed EOD date for Judge Rotolo of 4-1-1959². His last trial with the Division appears to have been in June 1960, with his IR issuing on 8-30-1960, as reported at 130 NLRB 1035 (1961). The LOS reports that Judge Rotolo transferred to Region 24 on September 11, 1960. Relaying "the rest of the story," Regional Attorney Rivera-Vega reports his understanding that Judge Rotolo left the Division and returned to Puerto Rico as Region 24's Regional Attorney. "After retiring in the mid 70's, he worked as local Counsel for the ILGWU in Puerto Rico for several years. Thereafter, in the 90's or late 80's he moved to Florida and worked pro bono for some time with a law firm owned by Luis Gomez." Further, "I am told Rotolo died at age 91 in Feb. 1999." (Thank you Mss. Figueroa and Pabon and Mr. Rivera-Vega!!)

e. Judge Howard I. Grossman

With a Division-assigned EOD date of 5-4-1980, Howard I. Grossman was one of the first judges to arrive for duty at the newly designated Atlanta office. Judge Grossman retired in September 2001.

Now with Judge Grossman's EOD date being May 4, 1980, how is it that we find him, or someone with the same name, presiding at the following NLRB trials in October 1972? Were there two separate NLRB judges with that name?

<u>Style</u>	<u>Cite</u>	<u>Trial Opened</u>	<u>JD Issued</u>
1. Southeastern Envelope	206 NLRB 933 (11-16-1973)	10-2-1972 Atlanta, GA	1-2-1973
2. Tamper, Inc.	207 NLRB 907 (12-14-1973)	10-11-1972 Columbia, SC	4-20-1973
3. GTE Automotive Electric	204 NLRB 716 (7-3-1973)	10-18-1972 Huntsville, AL	2-26-1973

The answer to the last question is No, there has been only one NLRB judge named Howard I. Grossman. The mystery is resolved by the now retired Judge Grossman himself, and by Judge Pargen Robertson, who was the General Counsel's trial attorney in *Tamper*. From their reports we learn the following: Before becoming an NLRB judge in 1980, Judge Grossman was serving as an ALJ with the Social Security Administration. Before that, he had been a

prosecuting attorney with the Board's Miami, Florida office (Region 12, Tampa). Shortly after he went to the SSA as an ALJ, Judge Grossman was loaned to the NLRB to help with the Board's heavy case load. The three cases listed above were those handled by Judge Grossman as a judge borrowed by the NLRB from SSA. (Judge Grossman actually recalls that there was a fourth case, but only three were found in this research.)

Judge Grossman also thinks that the General Counsel's trial attorney in the *GTE* case, at Huntsville, Alabama, was future judge Robert C. Batson (EOD 4-3-1977), and he vaguely recalls that future judge William N. Cates (EOD 6-1-1980) assisted Batson. Associate Chief Judge Cates essentially confirms this account on the basis that the time was early in his career with the Agency when he in fact did work with Batson on a few trials.

Former Associate Chief Judge Hutton S. Brandon (retired) recalls observing, in the early 1970s time frame, a trial at the NLRB Region 10 office in Atlanta presided over by SSA Judge Grossman (later NLRB Judge Grossman), although he does not recall the name of the case. Thus, it may well have been *Southeastern Envelope*.

5. "Borrowed" Judges

Regarding judges "borrowed" from other federal agencies, Chief Judge Giannasi advises, in a June 3, 2004 email, that the Division borrowed a good many judges in the late 1970s and early 1980s. Indeed, in addition to borrowing judges to handle the heavy case load, the Division also called back some retired NLRB judges for limited periods during that time frame.

Respecting "borrowed" judges, see *East Texas Motor Freight*, 262 NLRB 868 at 875 (1982), where Judge James W. Mast reports (JD issued 10-5-1979) that he was "designated by the Civil Service Commission to conduct the hearing and to issue a decision." Some recall that Judge Mast earlier may have served as the Regional Attorney with NLRB Region 28. See also *Dutch Boy*, 262 NLRB 4 fn. 1, and 10 (1982), in which Judge Arthur G. Lanker (JD issued 2-10-1981), was designated to take over as the presiding judge after Judge Benjamin K. Blackburn (EOD 6-7-1968) died midway through the trial. The informal recollection of some judges is that Judge Lanker served briefly in the capacity of a judge borrowed from another Federal agency.

Although no effort was made during research for this paper to track all the "borrowed" judges, a natural result of turning the pages of the bound volumes of the Board's decisions was the opportunity to see, in addition to the names on the Division rosters, a few names of other judges. All indications are that these other judges were "borrowed" from other Federal agencies, through the Civil Service Commission, at times (generally, after 1960) when the Division was very busy. As can be seen from the following dates, after the

busy trial years of 1979 through 1981, the use of “borrowed” judges quickly ended. The evaporation of the need for borrowed judges came roughly close to the time when the Division reached about the historical top for the level of the number of judges in the Corps of Judges.

In the list that follows, we see the names of judges who, from all indications, were “borrowed” from other federal agencies. Note that, except for Judge Howard Grossman in 1973, as detailed above, and Judge Lloyd R. Fraker in 1961-1962, as detailed below, all the other judges presided at trials from 1978 into 1981.

Judge Fraker had been a staff attorney at Region 9, Cincinnati, for the reported cases show him serving as a hearing officer in many Region 9 cases, dating from 1958 back to 1949, the latter being a case where he was the “GC” — the Region’s trial attorney. For example, see 83 NLRB 981 (1949) (trial attorney) and 123 NLRB 1183 (1959) (hearing officer). It is possible that Judge Fraker was a regular judge of the Division, but it seems unlikely. From late October 1961 to late April 1962 (almost exactly 6 months), Judge Fraker presided at some eight reported unfair labor practice trials for the Board. (The first, somewhat middle, and last reported cases are shown in the list below.) And then he left. While that is more cases than the others on the list handled, it also is clear that additional borrowed judges were not needed in 1961-1962, for the one borrowed judge apparently was able to assist the Division as needed.

[For nearly 35 years, from January 3, 1951, to August 27, 1985, the Board, contrary to past and present practice in unfair labor practice cases, did not list the attorneys for the parties. See NLRB Vols. 95 and 276 for the stop and resumption. The absence of such names from the Board's bound volumes complicated the research. Although the BNA volumes frequently, or even usually, show the names, to switch back and forth on every case would have postponed the completion date of this paper beyond the author’s lifetime.]

In the period of 1979 to 1981, when the case load was extra heavy, and before the additional judges who came on board in 1980 were able to be assigned, several borrowed judges were needed to handle the work. With the arrival of the judges hired in 1979, 1980, and 1981, followed not too long thereafter by a decline in the trial docket, the need for borrowed judges simply disappeared.

**LIST OF “BORROWED” JUDGES
FOUND IN NLRB VOLUMES 136 THROUGH 271
(ROUGHLY 20 YEARS, FROM ABOUT 1961 TO ABOUT 1981)**

<u>Name</u>	<u>Board Vol.; Page</u>	<u>JDDate</u>	<u>Trial Opens Mo/Yr</u>
1. Browning, Philip M.	260:150 (1982)	7-31-1981	3/81
	265:39 (1982)	6-26-1981	3/81
2. Bernice, J. Lee	257:825 (1981)	5-8-1981	1/81
	260:1123 (1982)	9-29-1981	3/81
	260:907 (1982)	9-29-1981	3/81
	263:15 (1982)	2-2-1982	3/81
	268:1457 (1984)	9-29-1981	1/81
3. Dapper, William	248:99 (1980)	11-7-1979	8/79
4. Fraker, Lloyd R.	136:1556 (1962)	12-29-1961	10/61
	139:365 (1962)	4-26-1962	1/62
	137:1293 (1962)	4-30-1962	3/62
5. Grossman, Howard I.	206:933 (1973)	1-2-1973	10/72
	207:907 (1973)	4-20-1973	10/72
	204:716 (1973)	2-26-1973	10/72
6. Howder, Thomas F.	258:1303 (1981)	6-12-1981	12/80
	261:793 (1982)	11-20-1981	11/80
7. Hoyt, Helen F.	263:1101 (1982)	2-5-1982	3/81
	270:241 (1984)	12-30-81	3/81
8. Lanker, Arthur G.	262:4 (1982)	2-10-1981	1/80
9. Mast, James W.	262:868 (1982)	10-5-1979	1978/1979
10. Mathias, John J.	257:219 (1981)	2-10-1981	12/80
11. May, Joseph M.	261:940 (1982)	9-3-1981	4/81
12. Murphy, Richard J.	246:1120 (1979)	4-27-1979	2/79
13. Needelman, Morton	259:1025 (1981)	4-16-1981	1/81
14. Neumaier, Edmund A.	258:292 (1981)	7-14-1981	3/81
	264:1360 (1982)	2-17-1982	3/81
15. Nicchitta, Angelo G.	260:192 (1982)	9-4-1981	4/81
16. Parker, Lewis F.	259:1168 (1982)	4-15-1981	2/81
17. Rodriguez, Elias C.	245:1234 (1979)	7-31-1979	4/79
	247:943 (1980)	6-29-1979	5/79
18. Saunders, Joseph J.	244:1154 (1979)	6-30-1979	2/79
19. Schmitt, Marvin J.	250:228 (1980)	9-28-1979	3/79
20. Timony, James P.	259:725 (1981)	5-11-1981	2/81
	261:1145 (1982)	7-27-1981	5/81
	263:258 (1982)	7-9-1981	5/81
21. von Brand, Theodor P.	274:874 (1985)	1-16-1981	9/80
	258:122 (1981)	3-13-1981	10/80
	261:12 (1982)	5-26-1981	No date

6. One Presided First; The Other Served The Longest

a. Judge Walter B. Wilbur

Of all the Board's regular staff judges, it was Judge Walter B. Wilbur who first presided at an NLRB unfair labor practice trial — that being on December 5, 1935, as reported at 1 NLRB 892 (June 4, 1936). It appears that he left the Agency about August 1938, and returned about April 1941.

In early January 1946, as Judge Charles W. Schneider reports at 71 NLRB 192, 198 fn. 3 (1946), Judge Wilbur (who last presided in December 1945) resigned from the Board's staff. Judge Wilbur apparently left to begin representing management, for later, in a September 1946 representation hearing, “Walter B. Wilbur, of Charleston, S.C.,” appears as the Employer’s counsel of record.

b. Judge Marion C. Ladwig

When Judge Marion C. Ladwig (EOD 1-17-1966) retired on February 3, 2004, after 38 years 18 days with the Division, he had served, as Chief Judge Giannasi reports, with the Division longer than any judge in the Division’s history.

In addition to his regular judicial duties with the Division, Judge Ladwig, a computer expert, assisted the Division, and many judges, to get started with the Division’s first software application. He also authored the Agency’s Style Manual, and provided the editorial supervision for the Division’s Bench Book that was first published in 2001 under the inspiration of Chief Judge Robert Giannasi who assembled a team of the following judges to assist him in researching and writing the Bench Book: Clifford H. Anderson (SF); Steven Fish (NY), Richard Linton (ATL), C. Richard Miserendino (DC), William Pannier (SF; DC), and Richard A. Scully (DC). Judge Ladwig will be missed at the Division.

The following related story, with photo on the left, below (showing Judge Ladwig flanked on the right by Chairman Battista and on the left by Chief Judge Giannasi), is copied (with the permission of NLRB Library Chief Kenneth Nero) from 10 *All Aboard* No. 6 at 7 (Feb. 2004):

HEADQUARTERS HIGHLIGHTS

Judge Ladwig Retires

Administrative Law Judge **Marion C. Ladwig**, who has been an ALJ for 38 years and has served as an NLRB Judge longer than anyone in the history of the Board, has retired.

A native Texan, during World War II Judge Ladwig headed the U.S. Army's Office of Criminal Investigations in Naples, Italy. He received his B.A. from Texas Christian University and his J.D. from the University of Texas. While in law school, he organized an NAACP chapter to work for the admissions of African Americans into the school.

In addition to his many decisions, Judge Ladwig is the author of the Board Style Manual and has prepared computer and decision-writing aids for the internal use of the Judges.

A true Renaissance person, Judge Ladwig has interests ranging from swimming to traveling around the world. His wife, Irene, is an accomplished artist and shares with him an enjoyment of ballroom dancing, astronomy, opera, and the arts.

As Judge Ladwig leaves the NLRB, Chief Administrative Law Judge Bob Giannasi notes in appreciation:

During his record 38 years of service as an NLRB judge, Marion Ladwig exhibited the highest degree of integrity and commitment. He pursued justice with an unflinching sense of public duty. His contributions to the Agency included preparation of the Board Style Manual and several decision-writing and procedural handbooks for the Judges Division.



[Only the photo on the left appears in the ALL ABOARD issue. In both photos, Judge Ladwig appears in the center, with Chairman Robert Battista on the right, and Chief Judge Robert Giannasi on the left.]

7. Temporary Judges

After August 1, 1938, and during the 1940s, particularly the years of the World War 2, "Trial Examiners" not regular staff judges of the Division occasionally presided at an unfair labor practice trial. Most of these "temporary judges" are listed below.

<u>Name</u>	<u>Trial Opened</u>	<u>Citation</u>	<u>Notes</u>
1. Bachman, Mervin N.	11/46	75 NLRB 230	
<p>Bachman perhaps was in the Review Section (or perhaps was Member Houston's confidential legal assistant) at the time of this trial, and perhaps did this as a one time experience (similar to the 10/43 experience of future judge William Feldesman). In any event, it does not appear that Bachman was a regular staff judge in the Division.</p> <p>After Taft-Hartley became effective in August 1947, Bachman is listed as one of the five Chief Legal Assistants: 13 <i>NLRB AR</i> at 5, fn. 1 (FY ending 6-30-1948).</p> <p>When the Agency began listing (in Vol. 85, covering decisions issued July 1 to Sept. 19, 1949), the chief counsel at the July 1, 1949 beginning of FY 1950 in the bound volumes, Bachman is shown as the chief counsel for Board Member John M. Houston. (Per the Board's website, Houston was appointed March 15, 1943.) Bachman served as Houston's Chief Counsel until Houston resigned in August 1953. See 106 NLRB ii. Unclear whether Bachman remained on the legal staff or went elsewhere. [And Board volumes at this time were not listing attorneys of record on a case, C or R.]</p>			
2. Donovan, Charles S.	8/48	83 NLRB 524	
	8/48	83 NLRB 465	
3. Ford, Peyton	10/42	49 NLRB 122	
4. Lobingier, Charles S.	7/39	14 NLRB 1213	R case
5. Mett, Frederick P.	8/40	28 NLRB 64	

For the fiscal years ending June 30, 1940 and 1941, Frederick P. Mett was the Regional Attorney at Milwaukee, Region 12. 5 *NLRB AR* 9 at 10; 6 *NLRB AR* at 109. Mett served one day (August 7, 1940) as a “duly designated trial examiner” in a complaint case — *Algoma Net Co.*, 28 NLRB 64 (Nov. 23, 1940). The main portion of the trial had already been handled by Judge Joseph F. Keirnan (the spelling of his surname differs in different cases), who had issued his Intermediate Report on February 8, 1940, and the Board had sent the case back for some fill-in evidence. “Judge” Mett issued no Intermediate Report (IR) and made no credibility resolutions. His selection apparently was one of convenience largely for, no doubt, budgetary reasons of saving the travel expense of a staff judge. It appears that no party objected to the procedure. Indeed, they may have agreed to it in advance.

8. Turnover in the Early Years

Following the Board's decision to employ only Division staff judges as of August 1, 1938, the 1940s saw much turnover in the ranks of the judges. A

major reason for this was decisions by the judges to support the war effort in other federal capacities (recall Chief Judge Pratt's example, as mentioned earlier). Yet there were departures of the more common type, such as transfers to other spots in the Agency, or simply to enter private practice. Departures were still noticeable in the 1950s. Those, however, are listed in the LOS, as shown above.

After (roughly) the Board's first 25 years or so, and as the Agency entered what might be called the modern era, the impression here is that the tenure pattern for the judges began to stabilize. Thus, in modern times the impression is generated that our judges seem more likely to remain in the Division until retirement. No doubt one reason for so many departures in the early years of 1930s, 1940s, and 1950s, was that the law was new, and those with Agency experience, and particularly NLRB trial experience, apparently could, if so inclined, find a position in private practice with relative ease. As the national labor bar developed, with other employment laws (and jury trials) now the major part of almost every labor practice, leaving the Agency in modern times probably has become an option less available than it was in the earlier years.

Aside from the personnel departures noted on the LOS, an indication of a departure usually can be observed from the lack of additional Board decisions in which cases the judges presided at trial. Occasionally, some of the names of these judges appear later in the listings of other Board offices (such as Regional Director or Regional Attorney, or perhaps as an Assistant General Counsel), in the Board's Annual Reports or on the first couple of pages of the bound volumes of the Board's decisions. Or, for several former judges, their names show up as the Regional Office staff attorney prosecuting the complaint case or presiding at a representation case.

Why list them here at all, for they are named on the ABC List? So many departures so early call for a listing. As just noted, the impression is that in the last 30 years or so, our judges have been more likely to work in the Division until full retirement — thus, many are with the Division for at least 20 years. That things were different in, particularly, the 1940s, perhaps is a phenomenon to be noticed. And before the San Francisco office opened in about January 1951, travel for the judges was a substantial problem. Indeed, as mentioned much earlier in the **Reflections** section of this paper, we learned from the oral history interview given by former Judge Will Maslow that he left the Division because his wife could no longer cope with the fact that he would be in travel status at least half the time. *Maslow* at 3, 27. One might well assume, therefore, that one factor for the decision by some of these judges to depart the Division and to accept positions, such as those in the Agency, was the thought that there probably would be less travel in the new position.

1. **Paradise, James C.** (EOD 6-1-1937)

Perhaps the two most prominent of these transferring to the Regional Offices in the early years would be **Judge James C. Paradise** and **Judge Gustaf B. Erickson**. Judge Paradise left the Division in early 1942 for, apparently, a staff position at Region 2, New York. For several years thereafter his name appears on various cases with him either prosecuting or presiding at Region 2.

2. **Erickson, Gustaf B.** (EOD 3-1-1938)

Judge Erickson followed a path similar to that taken by Judge Paradise. As with Judge Paradise, Judge Erickson was a steady producer for several years. About March 1944, Judge Erickson switched to Region 13 (Chicago) as, apparently, a staff attorney there, and he appears for several years thereafter in Region 13 cases, either as a hearing officer in representation cases or as the Board's trial attorney.

Earlier, both Judges Paradise and Erickson were attendees at the at the Agency's November 15, 1938 conference, in Washington, D.C. The panoramic photograph of the attendees at that conference (a copy of the photograph was graciously supplied by Chief Judge Giannasi for this paper), divided into three sections for insertion in this paper, is reproduced earlier. Zoom-in copies of the images from that photo of Judges Paradise and Erickson follow:



Most of the other departing judges from the early years (particularly from the 1940s) are as follows:

3. **Baron, Max G.** (EOD 5-1-1943⌋)

Presiding over only about half a dozen cases, concluding in September 1943, Judge Baron, like others at this time, perhaps left in early 1944 to join the war effort in some capacity. The last Board decision regarding one of his trials (opened August 30, 1943) is reported as *Wyatt Metal and Boiler Works*, 55 NLRB 618 (1944). (Judge's IR issued 12-29-43.). This was an order by the Board remanding for a new trial because the judge had made rulings which prevented the company from introducing relevant and material evidence. (The point here is not to highlight the remand. Indeed, remands could be shown regarding a good many other judges, for worse than the basis described here. What is interesting for our purposes here is one of the two procedural points mentioned by the Board.)

One of the procedural points described by the Board is this one, 55 NLRB at 619:

In another such instance, the Trial Examiner ruled that counsel for the Board need not exhibit to the respondent, for the purpose of cross-examination of a Board witness, a document which had previously been shown to that witness by the Board's counsel and withdrawn without being marked in evidence.

This ruling is authority for the proposition that every document should be marked by the court reporter (or at least announced as the party's next exhibit number), and shown to opposing counsel, before being shown to a witness. While that is the desired, and wise, practice, it is rare to find a ruling that, by extension, reinforces the practice. The ruling goes further, of course, to require the party to produce the document (and here the previously assigned or marked exhibit number plays a helpful role), shown earlier to the witness, so that the opponent may use it in cross examination of the witness.

4. **Bland, Theodore R.** (EOD 8-1-1938⌋)

One of those who began presiding before August 1, 1938, Judge Bland (9 NLRB 1149), continued presiding for a while afterwards, concluding, initially, in June 1939 (13 NLRB 841). Apparently departing the Agency and then returning over 2 years later, in February 1942 (54 NLRB 912), Judge Bland thereupon concluded his career with the Division. Although very close to an arbitrary distinction between Judges Broadwin (named below in the Honorable Mention section) and Bland, with only the latter counted as a Division Judge for this paper, the rather slight difference is that Judge Bland continued well into 1939 to preside. Plus, he was able to return to the Division, even though his return appears to have been limited to a single case. Although the Board, in the 1942 case, was a bit critical of "many" of Judge Bland's rulings (while finding no prejudicial error), it seems unlikely that such had anything to do with Bland's deciding to leave the Division again. Thus, it is

presumed here that he, like others, left at this time to join the nation's war effort in some capacity.

5. **Boyd, Melton** (EOD 7-1-1944⊃)

Judge Boyd first appears listed as the Regional Director at Region 24, Puerto Rico: 7 *NLRB AR* 193 (FY ending June 30, 1942). He is not so shown for 1943 per 8 *NLRB AR* at 236. He next appears in July 1944 presiding over a complaint case: 58 NLRB 1. After not quite a year as a Division Judge (he appears to have presided last in June 1945 at 67 NLRB 627), he thereafter (after a gap of over 2 years) is seen as a staff attorney at Region 19, Seattle (80 NLRB 1054) over the next few years.

6. **Cushman, Bernard** (EOD 1-1-1943⊃)

Judge Cushman, who presided from January 1943 to the end of that year, is one of the 12 Division Judges, active, former, or retired, who were interviewed by the assistants of Prof. Gross as part of the research for his three books on the Agency. Cushman gave his oral history interview on March 19, 1969, following his return to the Agency (after an absence of nearly 20 years), in his position of Special Assistant to the General Counsel. (*Cushman* at 1, 14, 43). Unfortunately, the interview does not disclose where Judge Cushman went after he left the Division (perhaps to join the war effort), or where else he had been in the nearly 20 years that he was gone from the Agency.

7. **Edes, Samuel** (EOD 10-1-1941⊃)

Judge Edes began presiding in October 1941 (39 NLRB 229), and appears to have concluded in January 1943 (48 NLRB 604). Perhaps it was to join the war effort. Indeed, for Fiscal Year 1943 the Board noted that it was experiencing a "manpower problem created by heavy turnover and a decreasing staff" 8 *NLRB AR* at 13.

8. **Feldesman, William** (EOD 10-1-1943≡) e11-29-71

Initially, Judge Feldesman was listed under the previous section, **Temporary Judges**. This is so because, on the surface, when he presided in October 1943, as reported at 54 NLRB 1253, the case appears to be while Feldesman was in the Review Section. This is so for he appears "Of Counsel to the Board" in other cases at this time period. Moreover, when the Agency began listing (in volume 45, and for only a few issues) the Review Supervisors, on a separate page of officials, William Feldesman is one of the 11 so named in Volume 45. He was not, however, one of the Chief Counsels (Chief Legal Assistants, then) when they are first named at 85 NLRB at ii (covering Board decisions of July 1, 1949, to September 19, 1949). After James V. Constantine left the Solicitor's position, and a few months later joined the Division (EOD 10-2-1961), Feldesman moved into the Solicitor's spot, as reflected at 131 NLRB iii. In any event, it is nearly 20 years after this 1943 case before

Feldesman, as a matter of certainty, became a Division Judge with a Division-assigned EOD date of 11-29-1971. He retired in 1973.

In his oral history interview of July 28, 1988, Judge Feldesman sheds a small bit of light here. Summarizing his early years with the Agency, he reports that he arrived in 1942, left in 1956, returned in 1961, and retired in 1973. *Feldesman* at 1, 3, 28, 38. Judge Feldesman further informs us that his first position was as an Associate Attorney in the Trial Examiners Division. (The work of that position is mentioned earlier in this paper in the **Reflections** section.) From there he became the Confidential Legal Assistant for Board Chairman Harry A. Millis. “I then became a Trial Examiner for a very short while, and then was transferred to the Review Section and became a supervising review attorney.” *Feldesman* at 2. His position as a trial examiner was one that he held only “briefly” early in his Board career. *Feldesman* at 26.

Recall that in the early 1940s (before the APA or Taft-Hartley) the Board still enjoyed much flexibility for assigning and transferring personnel in order to meet the Agency’s needs or desires regarding hearings or even trials of complaint cases. Recall also that in FY 1943, in the depths of World War 2, the Board was experiencing “its own manpower problem created by heavy turnover and a decreasing staff ...” 8 *NLRB AR* at 13. It is just possible that the Board determined that it needed someone, perhaps a newly minted trial examiner, to transfer and help out in the Review Section. Granted, Judge Feldesman’s description of his admittedly brief time as a trial examiner could be a shorthand version for describing a mere temporary assignment before he departed for the Review Section. Given the overall circumstances, however, and in light of the fact that Judge Feldesman’s description, however briefly stated, is rather declarative, for this paper Judge Feldesman is assigned a deemed original EOD date of 10-1-1943≡. [Recall that symbol ≡ means that he left the Division and the Agency, and eventually returned to the Division, with a brand new EOD date.] Thus, Judge Feldesman is not considered here as, in fact, a temporary judge in 1943.

9. **Gardner, Hamilton** (EOD 12-1-1948⊃)

The **LOS**, set forth earlier, shows several judges who were with the Division for under 3 years, and three judges for less than a year. Most (14) of those leaving left before 1955. While most on the list went to other federal agencies, others simply resigned. As already discussed at the **LOS**, a deep cut in the Agency’s budget for Fiscal 1952 (17 *NLRB AR* at 1, 5) created pressure to reduce staff. Four judges left, three for other agencies, with one (**Hamilton Gardner**), simply resigning. Two other judges from the **LOS** listed in a moment are, **Josef L. Hektoen** and **Vincent M. Rotolo**.

10. **Gubbins, Joseph E.** (EOD 3-1-1945⌋)

After presiding for about 7 months or so (apparently to 69 NLRB 1189), Judge Gubbins appears to have left the Division to enter private practice, for his appearance in that respect (representing labor) is reflected at 75 NLRB 274 (1947).

11. **Guffey, William F. Jr.** (EOD 2-1-1942⌋)

Judge Guffey presided from February 1942 to March 1944. In the Board's 9th Annual Report, for the fiscal year ending June 30, 1944, a "Wm. F. Guffey, Jr." is listed as the Regional Director for NLRB Region 14, St. Louis. 9 *NLRB Annual Report* 96. By the next year, he had left Region 14 — 10 *NLRB Annual Report* 112 — and, apparently, the Agency.

12. **Hektoen, Josef L.** (EOD 10-1-1939⌋)

A couple of other judges on the LOS should be mentioned in particular here. One is **Judge Hektoen** who died, as the LOS reflects, on November 15, 1950. What the LOS does not show is that Judge Hektoen left the Division about September 1944 to serve as the Regional Attorney at NLRB Region 13, Chicago, for over 3 years under Regional Director **George J. Bott** (himself a future General Counsel and a future NLRB judge, EOD 2-1-1960). See 10 *NLRB Annual Report* 112 through 12 *NLRB Annual Report* 184. About the time that **George Bott** left Region 13 and became an Associate General Counsel in Washington, D.C. (effective 10-14-1948, 79 NLRB iii fn. 2), **Judge Hektoen** also left Region 13 and returned to the Division (see, for example, 82 NLRB 497), from which he separated again, but this time by his untimely death. The other judge is **Vincent M. Rotolo**, listed in a moment.

13. **Hirshfield, Victor** (EOD 1-1-1946⌋)

Judge Hirshfield fits into a category of judges who worked only a short time, no more than a few months, in 1946. This category includes two judges listed below, **Judges Midinock and Rein**. Although Judge Hirshfield did not have a training judge, as did Judges Midinock and Rein (which suggests regular-staff status), he did preside from January 1946 into November of that year (75 NLRB 621), and such time indicates regular status.

14. **Issacson, William J.** (EOD 4-1-1944⌋)

Presiding for a bit less than a year (from about April 1944, 57 NLRB 1221), to about February 1945 (62 NLRB 229), Judge Issacson appears to have transferred to Region 3, Buffalo, as the Regional Director there. See 12 *NLRB AR* at 183. By the following year, he has departed from there, 13 *NLRB AR* 194.

15. **Karasick, David** (EOD 7-1-1943 |; e4-23-1962)

At least as early as 1941, David Karasick appears to have been a staff attorney at Region 13, Chicago, serving on occasion as the hearing officer in a representation case. See, for example, 38 NLRB 435 (hearing in December 1941) and 50 NLRB 516 (hearing in May 1943). By July 1943, Karasick appears to have become a trial examiner presiding over complaint cases in different Regions, such as Region 5, 53 NLRB 1313, to Region 19, 60 NLRB 787. He last presided at a complaint case in May 1944, in Region 14, 60 NLRB 1015 (a consolidated “C” and “R” case). After presiding at a couple of Region 13 representation cases in November 1944, Judge Karasick (it is not clear that he was still a trial examiner for the November cases, but it is assumed here that he still was) apparently transferred to Region 7, Detroit, to be a staff attorney there. This occurred about late November 1944, for he begins at Region 7 as the Board’s attorney in a couple of representation cases there that December 1944, 61 NLRB 4, and January 1945, 60 NLRB 885. Then he is seen presiding at representation cases at Region 7, beginning in February 1945, as reported at 60 NLRB 1234.

By 1946, Karasick appears to have transferred to Region 20, San Francisco, for he is seen presiding over representation cases there from September 1946 (72 NLRB 890) to at least as late as 1957 (118 NLRB 456). Eventually, in 1962 he returns to the Division, resumes presiding in May 1962 (139 NLRB 139), and is given the brand new EOD date (no adjustment for prior service) of 4-23-1962, as reflected by the roster of May 1, 1965. But by the list of June 30, 1970, he again has left. His deemed original EOD date of 7-1-1943 is marked with the symbol |, and his trailing EOD date of 4-23-1962 is preceded by the designation “e.”

16. **Lindsay, John T.** (EOD 10-1-1937⊃)

While not as short term as some of these others, Judge Lindsay is included here because he represents those judges, as described earlier in the subsection of **Reconstructed roster for July 1940**, apparently caught in the big layoff of the fiscal year ended June 30, 1940. 5 *NLRB AR* at 123. He began presiding in May 1937, along with future Chief Judge William Ringer. Judge Lindsay is assigned a deemed EOD date, for his Division Judge status, of 10-1-1937⊃, and first appears on the reconstructed roster of June 30, 1938, above. He did not survive the RIF that took place in the weeks leading up to the reconstructed roster for July 1940. He last presided in April 1940 (25 NLRB 265). Other judges, who had been steady producers, also did not survive the RIF, including Judges **Berdon Bell, Madison Hill, Waldo Holden, Joseph F. Keirnan, Albert L. Lohm, Joseph L. Maguire, D. Lacy McBryde, Henry W. Schmidt Jr., and Herbert Wenzel**. Several of these presided for the last time around April and May 1940. As research for this paper progressed

through the latter half of the 1930s, these names had become familiar. Then, they were gone.

Judge Lindsay was one of the attendees at the November 15, 1938 training conference in Washington, D.C. A zoom-in copy of his image in that photograph appears below. Also included is a zoom-in copy of future judge David Rein, mentioned below in this list of judges who left in the early years:



17. **Maslow, Will** (EOD 10-1-1941²)

As already mentioned a couple of times, Judge Maslow, who began presiding in October 1941 (37 NLRB 1140), and concluded in June 1943 (52 NLRB 161), left the Division, and the Agency, because of family dissatisfaction with all the travel required by the work of his being a trial examiner.

18. **McCoy, Whitely P.** (EOD 6-1-1939²)

After presiding a couple of times in August 1938, **Judge McCoy** appears to have been inactive, resuming the role of presiding judge in June 1939 (14 NLRB 920). However, his role in that regard was short lived, for he ceased presiding 2 months later (18 NLRB 195). Granted, his time of service in 1939, during the summer months, could indicate that the Division needed help from a per diem judge during summer vacation time. Nevertheless, during his short 1939 tenure he presided at least eight times, and that is consistent with the service of a regular staff judge. In the absence of more facts indicating per diem status, benefit of any doubt is resolved in the judge's favor for inclusion on the list of regular staff judges.

But even aside from the foregoing, the most likely explanation for Judge McCoy's early departure is the same as that for not including (as discussed earlier) the name of Judge Joseph F. Keirnan on the reconstructed roster for February 1940 — he was one of the first selected for layoff in Fiscal Year 1940 (which began July 1, 1939). Recall from the earlier discussion that, as the Board reports, the Agency sustained a budget hit for that fiscal year. 5 *NLRB AR* 123. Thus, for this paper, Judge McCoy is accorded the status of a

Division Judge. Because of his short tenure, Judge McCoy falls between the reconstructed roster dates of August 1, 1938, and February 1940, and therefore he is not named on any reconstructed roster. He is, however, included on the ABC List of Judges.

19. **Midonick, Millard L.** (EOD 1-1-1946⌋)

1/46 69 NLRB 172

1/46 67 NLRB 1185

In the first of the two cases, **Judge Thomas S. Wilson** served as, apparently, the training judge. That would suggest that Midonick was a Division Judge. He had been a staff attorney at Region 2. (See, for example, 30 NLRB 294 (3-13-1942).) However, as the Board still enjoyed flexibility in assigning personnel at this time, and with only two cases to Midonick's credit, a slight impression is created that Midonick possibly was not a Division Judge.

20. **Mouritsen, Frank A.** (EOD 10-1-1941⌋)

Another one of those judges who left the Division, and probably the Agency, during World War 2, Judge Mouritsen presided from October 1941 into June 1943 (52 NLRB 905). Perhaps he left to join America's war effort.

21. **Newman, Ralph A.** (EOD 10-1-1942⌋)

Judge Newman presided from October 1942 (46 NLRB 861) to July 1943 (52 NLRB 1131). Because he left when World War 2 was hot, it is possible that he joined the war effort in some capacity. Indeed, the Agency's manpower shortage had become such a problem that it had to close three Regional Offices during FY 1943 — Indianapolis (Region 11), Milwaukee (Region 12), and Denver (Region 22). 8 *NLRB AR* 12.

22. **Rein, David** (EOD 1-1-1946⌋)

As with Judge Midonick, Judge Rein also first presided in January 1946, and with a training judge, also had only a few cases.

Could there have been something else at work here? Such as a budget problem? An inspection of the Agency's annual reports reflect that, for the fiscal year beginning July 1, 1946 (Fiscal 1947), the Agency suffered a "deep cut made in its appropriations for the fiscal year beginning July 1, 1946, which necessitated the separation of over 20 percent of its personnel." 11 *NLRB AR* 6; 12 *NLRB AR* 4. However, for Fiscal 1946, the Board's annual report mentions nothing about any budget problem for the fiscal year ending June 30, 1946. As reflected in the EOD List, a total of nine judges were hired in the first few months of 1946. (The next arrival was not until some 2 years later, in April 1948.) Of the nine, five left during that 1946, and a sixth left after presiding in June 1947. Whatever the reason or reasons for these quick departures, these judges are included on the ABC List.

23. **Vincent M. Rotolo** (EOD 4-1-1959²)

The other judge from the LOS is **Judge Vincent M. Rotolo**. On the LOS in the original, Judge Rotolo is listed simply as “Rotolo.” (The lack of his name, the many EOD dates missing from the LOS, not to mention the names missing, as well as EOD dates, of so many of those who were staff judges in the late 1930s and in the 1940s, were the primary motivations for the preparation of this paper.) **Judge Rotolo** was a long-time attorney with Region 2, New York. Eventually he joined the Division. Based on his first reported trial in April 1959, as reported at 124 NLRB 604 (1959), his deemed EOD date for this paper is 4-1-1959². He did not remain long, with the Division, transferring, as shown on the LOS, to Region 24, Puerto Rico, on September 11, 1960.

24. **Scott, William J.** (EOD 5-1-1946²)

One of the five who left that 1946, Judge Scott became a staff attorney at Region 17, Kansas City (see 76 NLRB 47), and is seen presiding over representation cases there (and a couple of times elsewhere, as is the Agency custom) well into the 1950s, as is reflected by a 1954 case at 111 NLRB 156.

25. **Smoot, T. B.** (EOD 2-1-1945²)

Judge Smoot presided until June 1947 (78 NLRB 891). Even so, his tenure still was quite short.

26. **Strong, William** (EOD 10-1-1942²)

Judge Strong presided from January 1943 (49 NLRB 1325) to October of that year (53 NLRB 1212). He appears to have left the Division to serve in the Board's Review Section in early 1944, for his name appears on published representation case decisions over the next several weeks as “of counsel to the Board.” For example, at 54 NLRB 1326 (2-14-44; hearing on 1-17-44 before Allen Sinsheimer Jr., EOD 2-23-66). Oddly, a “William Strong” is shown as the Regional Attorney at New Orleans, NLRB Region 15, for the fiscal year ending June 30, 1943. 8 *NLRB Annual Report* 236. It is possible that such listing is based on his service in that position for the last half of 1942, and that he then left for the Division. (In the Board's annual reports, he is not listed for New Orleans either in a prior or subsequent year.) As of the late spring of 1944, World War 2 was still raging, with D-Day at Normandy just a few weeks away. It is possible that around May 1944 Judge Strong left the Agency to join the war effort in some capacity. In any event, it appears that Judge Strong's tenure with the Division, and perhaps with the Agency, was rather short.

27. **Wells, Joseph C.** (EOD 3-1-1946²)

Also one of the five who left in 1946, and who apparently left by the June 30, 1946 closing of FY 1947, Judge Wells is later seen named on the page of officials as an Associate General Counsel under the first statutory General Counsel, former Judge Robert N. Denham, when Denham began his term

shortly after the Taft-Hartley Act was passed in late June 1947. See 12 *NLRB AR* iii. As past and future Judge William Feldesman reports, when Feldesman was appointed an Assistant General Counsel on General Counsel Denham's staff, former judge Joseph C. Wells was his immediate superior. *Feldesman* at 3-4.

9. Honorable Mention

Finally, a few judges, not named on the ABC List, deserve to be included on this Honorable Mention List. They are so included because at least part of their service came after the August 1, 1938 change in policy as to using any per diem judges. All presided at only a few, or at perhaps several, trials after August 1938 (and even after allowing that the Division permitted a per diem judge to preside at a few cases already scheduled, and to complete his Intermediate Report), but not at enough cases thereafter to generate the image of a regular Division Judge. Granted, the selection process employed here is not perfect. Even so, a selection of some kind has to be made. For that process, the following judges are recognized here as part of this Honorable Mention List:

1. Broadwin, I. L.

I. L. Broadwin, who first presided in June 1938 (11 NLRB 1382), is one of those persons considered for this paper as probably per diem judges even though they presided a handful of times after August 1, 1938. He had a bit more than that (three times that August, four in October 1938, and once in March 1939: 19 NLRB 503). It is quite possible that the Division needed to phase out the per diem judges even though the Board's policy change was effective that August 1. Even so, he merits an honorable mention for his work, particularly after August 1, 1938, when other judges had just been selected as regular staff judges.

Additionally, Broadwin shows up again much later, about 1948, as a staff attorney at Region 2, New York, mostly presiding at representation cases, such as 87 NLRB 449 (1949), and on into the 1950s, as at 115 NLRB 1497 (1956). Had he been a Division Judge when he left in 1939, it seems likely, in view of others who left and later returned, that he could have returned to the Division. (Of course, he may have wanted to avoid all the travel that the judges had to do before the San Francisco office opened about January 1951.)

Broadwin was one of the attendees at the November 1938 training conference in Washington, D.C. A zoom-in copy of Broadwin's image appears below:

Lawrence Broadwin, as an attendee at the DC conference on 11-15-1938.		Broadwin is #129 on the ID list, and is seated just to the left of Judge Gustaf Erickson as one looks at the middle panel of the picture.
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2. Clark, Wright

Presiding first in May 1938 (7 NLRB 1169), Clark worked beyond the cutoff date of August 1, 1938 — presiding over four cases that August, one in September, and two more in October 1938, the last one, a representation case, reported at 10 NLRB 625. Surely he can be given an honorable mention.

3. Griffin, William H.

With longer service than that of Lawrence Broadwin, above, and similar to the tenure of D. Lacy McBryde, below, William Griffin began presiding in July 1937 (4 NLRB 567). Following the Board's decision to employ only regular-staff judges effective August 1, 1938, Griffin presided over four cases, one each in August, November, and December 1938, and one in January 1939 (11 NLRB 1075). For his work after August 1, 1938, Griffin deserves placement on this Honorable Mention List.

4. Hurley, Harlow

We already are familiar with the name of Harlow Hurley (deemed in this paper to be a per diem judge), the “green trial examiner” as mentioned, from a quote, by Prof. Gross in *Reshaping* at 174. (And earlier, a statement in defense of “green trial examiners” from the 1930s is set forth in this paper in the section on **Officials and Other Early Day Judges**.) In any event, Judge Hurley served from March 1937 (7 NLRB 396) to October 1938 (10 NLRB 652). He deserves mention here.

5. Insirilo, L. Richard

Presiding first in February 1938 (12 NLRB 60), Richard L. Insirilo presided three times after August 1, 1938, the last time being in that September at a representation case, (9 NLRB 778). Although he appears not to have survived the cut made for the permanent staff that August 1, his brief service after that date justifies his mention here.

6. McBryde, D. Lacy

Judge McBryde began presiding before August 1, 1938, specifically in July 1937 (7 NLRB 408). He continued after August 1, 1938, in three cases that same year, the last being in December 1938, and one more several months later, in August 1939 (17 NLRB 1011). Although the impression is rather strong that Judge McBryde was never appointed to be a Division Judge, he deserves placement here.

7. Stephenson, Dwight W.

Similar to some of the others above, Dwight Stephenson began presiding in November 1937 (5 NLRB 65), and continued beyond August 1, 1938, in three cases, the last one being in December 1938 (24 NLRB 1136). For his service, he is recognized here.

RETIREMENTS

AUTHOR'S EXPLANATORY NOTE

As hopefully is clear from the beginning of this paper, my initial focus and plan for the paper has been historical, with an emphasis on the early years. Even so, I wanted to set forth the available rosters, with EOD dates, even up to the present day, with a complete list of all the regular-staff judges who have served. Because that task seemed quite sufficient in itself, I put aside thoughts of trying to gather retirement dates and dates of death even though such matters are certainly relevant in presenting a judge's timeline. In any event, gathering the data for retirements and deaths of all the judges, even a substantial number of those who have served and retired, and the many who have died, would simply not be possible. Such matters are not, for the most part, reported in the Board's bound volumes. Living in Katy, Texas, I am in no position to do daily research at the Board's headquarters (even assuming that all such personnel files would or even could be made available to me) on such matters. Nor do I have the financial resources to hire a professional genealogist to search for obituaries that might yield such data. Finally, after over 2 years on this project, and having reached my limited goals, I selected the date of August 1, 2004, as the publication date for this paper.

Although my limited goals have been reached, there has still been time for me to go through my personal collection of *All Aboard* issues and what NLRB Bulletins that I have. From that collection, and with a few contacts with other sources, I have been able to list some of these dates of retirement and death. I regret that my collection is not larger (as it could have been had I thought of this 20 years ago) so that I could list more judges in the following sections of Retirements and of Deaths.

At the moment, I contemplate drafting for next year the first annual supplement for this paper. Perhaps some younger soul will volunteer to carry on with the annual supplements so that much later no one asks, “Why didn’t someone do annual supplements?” Without such, in 50 years we will have another great gap in the Division’s history, even if all the rosters are preserved. The ABC List will have to be supplemented.

Finally, in this late spring I temporarily included a couple of representative articles from *All Aboard* about retirements and deaths. However, I eventually concluded that perhaps such might be a bit discomfoting to many, including family and friends of judges who have retired or passed on, since there would be no such articles for all. Disappointing, but probably for the best. Even so, in contemplating the annual supplements, my current idea is that it would be quite appropriate to start there and include all, or substantially all, *All Aboard* articles and NLRB Bulletins, that come into my possession, concerning retirements and deaths occurring after the August 1, 2004 publication of this paper.

If an *All Aboard* issue contains an article, the page number will be given below. When the information appears in the Obituary column, on the last page of that *All Aboard* issue, it will be indicated by an “O.” Information reported in an NLRB Bulletin will be indicated by a “B,” and a “PR” will indicate a Press Release. There follows some retirements (retirement dates may be only the year, as indicated by the article cited) as reflected in *All Aboard*, NLRB Bulletin, or other source.

As noted earlier, when Judge Marion C. Ladwig retired on 2-3-2004, he was honored for serving as a Division Judge longer than any judge in Board history — 38 years 18 days.

<u>Judge</u>	<u>EOD Date</u>	<u>Retired</u>	<u>Issue</u>	<u>Article Page</u>
1. Bokat, George	2-1-1938	6-30-1972	198 NLRB iii	
2. Feldesman, William	10-01-1943≡ e11-29-1971	1973	Oral history	3
3. Turitz, George	2-28-1966	1973	W.Post 1-6-04	
4. Nachman, Joseph I.	4-16-1962	12/1974	3-10-1980	B
5. Ordman, Arnold	4-20-1959●	11/1975	223 NLRB 580 (last reprinted case)	
6. Maher, Thomas F.	5-11-1959	1979	9/2001	O

RETIREMENTS

7.	Bisgyer, Paul	1-24-1960	1980	1-28-1980	B
8.	Kessel, Thomas N.	4-15-1953	1-12-1980	249 NLRB iii	
				1-28-1980	B
9.	Kirkwood, Platonina P.	8-4-1975	1980	1-28-1980	B
10.	Seff, Bernard J.	6-24-1968	1980	1-28-1980	B
11.	von Rohr, John P.	1-11-1960	1980	1-28-1980	B
12.	Winkler, Ralph	4-3-1950	1980	1-28-1980	B
13.	Ness, Bernard	7-2-1972	1980	2-25-1986	B
14.	Friedman, Morton D.	5-15-1960	1980	3-18-1980	B
15.	Lieberman, Alvin	1-17-1966	1980	3-18-1980	B
16.	Rosenberg, Max	1-14-1964	1980	3-18-1980	B
17.	Schneider, Charles W.	10-12-1942	2-23-1980	3-18-1980	B*
				*plus DC Office	
18.	Leff, Arthur	5-13-1944	12-27-1980	254 NLRB iii	
				2-27-1981	B
19.	Jennie M. Sarrica (Goicoechea)	6-11-1972	1981	2-27-1981	B
20.	Klein, Josephine H.	1-17-1966	1981	2-27-1981	B
21.	Mullin, Robert E.	12-12-1949	1981	2-27-1981	B
22.	Silberman, Herbert	4-27-1953	1981	2-27-1981	B
23.	Frank, Abraham	5-2-1976	1982	3-16-1982	B
24.	Jalette, Henry L.	6-7-1968	1982	3-16-1982	B
25.	Stone, Jerry B.	5-1-1962	1982	3-16-1982	B
26.	Saunders, Phil W.	4-15-1959	4-4-1986	4-2-1986	B
27.	Taplitz, Richard D.	6-17-1968	6-30-1989	SF Office	
28.	Zankel, Norman	1-16-1977	9-30-1990	Judge Wagman	
29.	Ricci, Thomas A.	6-15-1958	1991	2/1997	O
30.	Gadsden, Elbert D.	6-11-1973	1995	1/1995	7
31.	Holley, Donald R.	11-21-1976	1995	1/1995	7
32.	Leiner, Robert	10-5-1975	1995	1/1995	7
33.	Maloney, Walter H. Jr.	2-26-1973	1994	1/1995	7
34.	Wolfe, Claude R.	6-20-1976	1995	1/1995	7
35.	Jacobs, William F.	10-5-1975	1-3-1997	1/1998	O
36.	Batson, Robert C.	4-3-1977	1-2-1998	ATL Office	
37.	Miller, Michael O.	1-5-1975	5-22-1998	5-15-1998	PR
38.	Charno, Steven M.	9-6-1981	12-31-1999	SF Office	
39.	Sherman, Nancy	1-23-1972	2001	1/2002	6
40.	Wilks, Thomas R.	2-1-1976	3-30-2001	1/2002	6
41.	Herzog, Frederick C.	7-1-1979	2001	1/2002	6
42.	Nelson, Timothy D.	9-5-1978	6/2001	1/2002	6
43.	Grossman, Howard I.	5-4-1980	9/2001	1/2002	6
44.	Wieder, Joan	7-16-1978	9/2001	1/2002	6
45.	Linton, Richard J.	7-13-1980	11-2-2001	1/2002	6
46.	Beddow, Richard H. Jr.	7-26-1981	12/2001	1/2002	6

47. Socoloff, Irwin H.	5-2-1976	12/2001	1/2002	6
48. Stevenson, Michael D.	4-20-1979	11/2002	1/2002	6
49. Schwarzbart, Robert	3-16-1975	2002	1/2002	6
50. Pannier, William J. III	8-12-1974	2003	3/2003	10
51. Kleiman, Jesse	2-26-1978	2003	10/2003	12
52. Wagman, Leonard	2-12-1973	2003	10/2003	8
53. Ladwig, Marion C.	1-16-1966	2-3-2004	2/2004	7

DEATHS

“Sunset and evening star, and one clear call” for each of us! (With apologies to Alfred, Lord Tennyson, and his *Crossing The Bar*.) When we do depart to meet the Pilot in Tennyson’s poem, it is nice that our passing is noticed by those here.

Some of our colleagues who have passed on in recent years are listed below. Page numbers of articles in *All Aboard* are shown below. When no page number is shown, the *All Aboard* issue has no article on the death, but the death is noted in the “Obituary” column on the last page of that *All Aboard* issue, and marked below with an “O.” If announced in an Agency Bulletin, it is marked below with a “B”. Citation to a bound volume indicates that the matter was mentioned in a Board decision.

	<u>Judge</u>	<u>EOD Date</u>	<u>Retired</u>	<u>Issue</u>	<u>Article Page</u>
1.	Smith, Edward Grandison	5-1-1937	2-17-1944	Granddaughter	
2.	Webb, William P.	8-1-1938 ²	1947	79 NLRB 557	
3.	Hektoen, Josef L.	10-1-1939 ²	11-15-1950	LOS	1
4.	Kent, Henry J.	6-1-1937 ²	1-15-1953	LOS	1
5.	Fitzpatrick, James J.	12-1-1937 ²	1-22-1953	LOS	1
6.	Royster, Wallace E.	3-5-1946	1969	183 NLRB 682	
7.	Bokat, George	2-1-1938	11-15-1973	Son, 5-9-2004	
8.	Schlezinger, Anne F.	6-7-1968	8-15-1978	W.Post 8-18-78	
9.	Corbley, John F.	10-29-1972	11-7-1978	273:256 fn. 2	
10.	Pratt, George O.	11-15-1937	10/1979	Son	
11.	Nachman, Joseph I.	4-16-1962	3-7-1980	3-10-1980	B
12.	Cohen, Leonard N.	12-24-1978	8-13-1984	ATL office	
13.	Ohlbaum, Stanley N.	6-30-1963	10-31-1984	298:1000 fn. 1	
14.	Ness, Bernard	7-2-1972	2-22-1986	2-25-1986	B
15.	Zankel, Norman	1-16-1977	10-12-1990	W. Post 10-14-90 Judge Wagman	
16.	Ricci, Thomas A.	6-15-1958	8-18-1997	9/1997	O

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17. Jacobs, William F.	10-5-1975	12-14-1997	1/998	O
18. Rotolo, Vincent M.	4-1-1959 ²	2/1999	RA, Region 24	
19. Maher, Thomas F.	5-11-1959	9-1-2001	9/2001	O
20. Maloney, Walter H. Jr.	2-26-1973	10-28-2001	11-1-2001	B
21. Mullin, Robert E.	12-12-1949	11-6-2001	1/2002	O
22. Hermele, Jerry M.	5-25-1997	2/2002	2-22-2002	B
23. Kessel, Thomas N.	4-15-1953	1-10-2003	1-14-2003	B
24. Pulcini, Robert A.	12-31-2000	7-8-2003	9/2003	6
25. Lipton, Benjamin B.	9-26-1961	10-6-2003	10-9-2003	B
26. Morton, James F.	9-16-1979	3-3-2003	4/2003	O
27. Turitz, George	2-28-1966	1-1-2004	W.Post 1-6-04	
28. Youngblood, W. Edwin	6-7-1962	1-11-2004	1-15-2004	B
29. Miller, Michael O.	1-5-1975	1-15-2004	1-20-2004	B
			2/2004	7

THE ABC LIST— ALL NLRB JUDGES, PAST TO PRESENT

ALPHABETICAL ORDER

REGULAR-STAFF JUDGES ONLY

For reasons explained earlier, the original EOD (entered on duty) date controls for this paper. As described in detail earlier, symbols after the EOD dates indicate, as briefly explained here: \supseteq a deemed date; \bullet returned after service elsewhere in Agency; EOD date adjusted for absence; \subset same as \bullet except primary EOD date is deemed; \neq date restored by Division after correcting mistake; \equiv returned to Division after working outside Agency; new EOD date assigned; \approx EOD date deemed based on Board press release; \angle inadvertent error in EOD date corrected by this paper; and $|$ EOD date presumably should have been adjusted, but instead was given a new one; original is primary.

An “e” preceding a second EOD date is the Division assigned EOD date. For example, and as described above in both the LOS and in the Preface, in this paper number 14 on this ABC list, Judge Stephen S. Bean, has a deemed EOD date in 1950 (based on the month he first presided, as reflected in the Board's bound volumes) that is marked with the symbol \subset . That symbol indicates Judge Bean left the Division to serve elsewhere in the Agency (served as a Board Member), that he later returned, and that when he returned the Division assigned him an adjusted EOD date. (Consistent with the practice of Division seniority, Judge Bean received an EOD date that, from his return date, counted back for a period of time equal to his prior service in the Division, fixing the date arrived at as the new EOD date. However, In this paper, and for reasons explained earlier, the original EOD date, whether deemed or otherwise, is used as the primary date.)

	<u>NAME</u>	<u>EOD</u>	<u>OFFICE</u>	<u>NOTES</u>
1.	Aleman, George	01-22-1995	DC	
2.	Alexandre, Maurice	06-06-1966	SF	
3.	Alprin, Walter J.	07-26-1981	DC	
4.	Amchan, Arthur	09-01-1996	DC	
5.	Anderson, Clifford H.	01-02-1980	SF	
6.	Asher, Sydney S. Jr.	12-27-1949	DC	
7.	Barban, Sidney J.	01-18-1965	DC	
8.	Barker, James T.	10-02-1961	SF	
9.	Baron, Max G.	05-01-1943 [⊇]	DC	
10.	Barton, William B.	09-01-1939 [⊇]	DC	
11.	Batson, Robert C.	04-03-1977	A	
12.	Batten, James C.	05-01-1937 [⊇]	DC	
13.	Battle, Joseph L.	05-31-1976	DC	
14.	Bean, Stephen S.	02-01-1950 [⊃]	DC	e10-3-1954
15.	Beddow, Richard H. Jr.	07-26-1981	DC	
16.	Bell, Berdon M.	04-01-1939 [⊇]	DC	
17.	Bellman, Earl S.	02-01-1938	DC	
18.	Benard (Bittner), Mary Ellen R.	11-23-1980	DC	
19.	Bennett, Edwin H.	09-16-1979	NY	
20.	Bennett, Martin S.	10-07-1944	SF	
21.	Bernard, Harold Jr.	04-08-1979	DC	
22.	Best, Lee J.	03-01-1950	DC	
23.	Biblowitz, Joel P.	06-01-1980	NY	
24.	Binder, Samuel	02-01-1953 [⊇]	DC	
25.	Bisgyer, Paul	01-24-1960	DC	
26.	Blackburn, Benjamin K.	06-07-1968	DC	
27.	Blake (Hulse), Rosanna A.	04-29-1962	DC	
28.	Bland, Theodore R.	08-01-1938 [⊇]	DC	
29.	Bloom, Frank	05-01-1937 [⊇]	DC	Chief Judge
30.	Bogas, Paul A.	03-07-2000	DC	
31.	Bokat, George	02-01-1938	DC	Chief Judge
32.	Bott, George J.	02-01-1960	DC	
33.	Boyce, Richard J.	03-04-1973	SF	
34.	Boyd, Melton	07-01-1944 [⊇]	DC	
35.	Boyls, Fannie M.	04-25-1960	DC	
36.	Bracken, Thomas E.	01-06-1975	DC	
37.	Brakebusch, Margaret G.	06-04-2001	A	
38.	Brandon, Hutton S.	06-08-1977	A	
39.	Brown, William J.	05-02-1960	DC	
40.	Buchanan, Lloyd	01-18-1950	DC	
41.	Buschmann, Karl H.	09-28-1975	DC	

42. Bush, Maurice S.	01-04-1965	DC	
43. Buxbaum, Paul	06-04-2001	DC	
44. Campbell, Myers D.	09-01-1948 [⊇]	DC	
45. Carson, George	09-01-1996	A	
46. Cates, William N.	06-01-1980	A	
47. Charno, Steven M.	09-06-1981	DC	
48. Christensen, George	02-28-1966	SF	
49. Christopher, Arthur Jr.	01-18-1965	DC	
50. Clark, John T.	07-31-2000	DC	
51. Cohen, Leonard N.	12-24-1978	A	
52. Cohn, Julius	04-14-1974	NY	
53. Cohn, Robert	01-18-1965	DC	
54. Constantine, James V.	10-02-1961	DC	
55. Corbley, John F.	10-29-1972	DC	
56. Corcoran, James A.	10-27-1952	DC	
57. Corenman, Herman	06-17-1968	SF	
58. Cracraft, Mary M.	01-22-1995	SF	
59. Cullen, Lawrence W.	11-09-1980	A	
60. Cushman, Bernard	01-01-1943 [⊇]	DC	
61. Dalby, Dent D.	12-19-1952 [⊇]	DC	
62. Davidson, David S.	04-19-1965	DC	Chief Judge
63. Davidson, Mapes	10-01-1937 [⊇]	DC	
64. Davis, David E.	01-17-1966	SF	
65. Davis, Steven	07-26-1981	NY	
66. Denham, Robert N.	03-01-1938 [⊇]	DC	
67. Denison, Richard L.	03-25-1974	DC	
68. Dixon, Eugene E.	08-12-1948	DC	
69. Donnelly, Peter E.	05-01-1974	DC	
70. Donovan, Ramey	02-16-1959	DC	
71. Dorsey, John H.	01-11-1960	DC	
72. Dowd, Judith A.	01-22-1995	DC	
73. Downing, George A.	09-16-1948	DC	
74. Doyle, David F.	02-27-1950	SF	
75. Dudley, Tilford E.	06-01-1937 [⊇]	DC	
76. Dyer, John M.	02-28-1966	DC	
77. Eadie, Bertram G.	03-01-1950 [⊇]	DC	
78. Eadie, John H.	09-25-1942 [≡]	DC	e11-25-1943
79. Edelman, Howard	12-03-1979	NY	
80. Edes, Samuel	10-01-1941 [⊇]	DC	
81. Erickson, Gustaf B.	03-01-1938 [⊇]	DC	
82. Evans, David L.	07-30-1978	DC	
83. Feiler, Sidney	07-10-1944	DC	
84. Feldesman, William	10-01-1943 [≡]	DC	e11-29-1971

85. Ferguson, Charles	05-14-1948	DC	
86. Fine, Eric M.	03-29-1999	DC	
87. Fischer, John C.	10-15-1952	DC	
88. Fish, Steven B.	09-16-1979	NY	
89. Fitzpatrick, James J.	12-01-1937 [⊇]	DC	
90. Fitzpatrick, James M.	06-07-1968	DC	
91. Foley, James F.	04-20-1959	DC	
92. Frank, Abraham	05-02-1976	DC	
93. Frey, Eugene F.	01-03-1950	DC	
94. Friedman, Morton D.	05-15-1960	DC	
95. Frye, D. Randall	01-14-1997	A	
96. Funke, John F.	04-16-1959	DC	
97. Gadsden, Elbert D.	06-11-1973	DC	
98. Gardner, Hamilton	12-01-1948 [⊇]	DC	
99. Gates, Robert M.	01-01-1936 [⊇]	DC	
100. Gershuny, William	06-13-1980	DC	
101. Giannasi, Robert A.	05-02-1976	DC	Chief Judge
102. Gilbert, Stanley	04-25-1960	SF	
103. Gillis, Wellington A.	02-08-1960	DC	
104. Goerlich, Lowell M.	04-19-1965	DC	
105. Goldberg, Arthur M.	01-17-1966	DC	
106. Goldberg, Sidney D.	10-02-1961	DC	
107. Goldman, Max M.	07-03-1944	DC	
108. Gontram, Joseph M.	01-13-2003	DC	
109. Goslee, Eugene G.	11-28-1971	DC	Chief Judge
110. Green, Raymond P.	09-16-1979	NY	
111. Greenberg, Isadore	04-01-1946 [⊇]	DC	
112. Greenidge, Lloyd S.	06-17-1968	DC	
113. Gregg, John G.	10-25-1965	DC	
114. Gritta, Robert A.	08-27-1978	A	
115. Gross, Stephen J.	05-20-1979	DC	
116. Grossman, Howard I.	05-04-1980	A	
117. Gubbins, Joseph E.	03-01-1945 [⊇]	DC	
118. Guffey, William F. Jr.	02-01-1942 [⊇]	DC	
119. Harmatz, Joel A.	02-12-1973	DC	
120. Harper, Paul L.	03-04-1973	DC	
121. Heilbrun, David G.	04-01-1974	SF	
122. Hektoen, Josef L.	10-01-1939 [⊇]	DC	
123. Hemingway, James R.	02-01-1943 [≠]	SF	
124. Herman, Arthur A.	09-16-1979	NY	
125. Herman, Irving M.	07-03-1972	DC	
126. Hermele, Jerry M.	05-25-1997	DC	
127. Herzog, Frederick C.	07-01-1979	SF	

128.Hill, Madison	01-01-1939	⌋	DC	
129.Hilton, Reeves R.	12-12-1949		DC	
130.Hinkes, Harry R.	04-01-1965		DC	
131.Hirschfield, Victor	01-01-1946	⌋	DC	
132.Holley, Donald R.	11-21-1976		DC	
133.Holmes, Roger B.	01-18-1976		SF	
134.Hunt, A. Bruce	03-18-1939		DC	
135.Isaacson, William J.	04-01-1944	⌋	DC	
136.Itkin, Frank H.	11-29-1971		DC	
137.Ivins, Richard N.	02-01-1953	⌋	DC	
138.Jacobs, William F.	10-05-1975		DC	
139.Jaffee, Samuel H.	12-01-1937	⌋	DC	
140.Jalette, Henry L.	06-07-1968		DC	
141.Janus, Milton H.	01-17-1966		DC	
142.Jenson, James S.	10-01-1972		SF	
143.Johnston, Thomas D.	11-29-1971		DC	
144.Kapell, William W.	05-24-1964		DC	
145.Kaplan, Irwin	01-16-1977		DC	
146.Karasick, David	07-01-1943		DC	e04-23-1962
147.Keirnan, Joseph F.	08-01-1938	⌋	DC	
148.Kennedy, Eugene K.	02-24-1959		SF	
149.Kennedy, Harold A.	02-13-1977		SF	
150.Kennedy, James M. III	05-30-1976		SF	
151.Kennedy, Thomas H.	10-01-1937	⌋	DC	
152.Kent, Henry J.	06-01-1937	⌋	DC	
153.Kern, Margaret	01-05-1997		DC	
154.Kessel, Thomas N.	04-15-1953		DC	Chief Judge
155.King, Russell M. Jr.	08-31-1975		DC	
156.Kirkwood, Platonia P.	08-04-1975		DC	
157.Kleiman, Jesse	02-26-1978		NY	
158.Klein, Josephine H.	01-17-1966		DC	
159.Knapp, Laurence A.	12-10-1962		DC	
160.Kocol, William	09-15-1996		DC	
161.Kolko, Burton S.	09-06-1981		DC	
162.Koretz, Robert F.	06-01-1942	⌋	DC	
163.Kuskin, Harry H.	04-15-1965		DC	
164.Ladwig, Marion C.	01-17-1966		DC	
165.Laughlin, Loren H.	07-01-1953	⌋	DC	
166.Lawrence, Harold B.	07-26-1981		NY	
167.Leedom, Boyd S.	01-05-1965		DC	
168.Leff, Arthur	05-13-1944	●	DC	e4-16-1951; C/J
169.Leiner, Robert W.	10-05-1975		DC	

170. Lewis, John	04-01-1948	DC	
171. Libbin, Louis	04-20-1954	DC	
172. Lieberman, Alvin	01-17-1966	DC	
173. Lightner, Leo F.	03-09-1959	SF	
174. Lindner, Sidney	09-21-1944	DC	
175. Lindsay, John T.	10-01-1937	DC	
176. Linsky, Martin J.	09-08-1981	DC	
177. Linton, Richard J.	07-13-1980	A	
178. Lipton, Benjamin B.	09-26-1961	DC	
179. Litvack, Burton	08-13-1979	SF	
180. Locke, Keltner	01-19-1997	A	
181. Lohm, Albert L.	08-01-1938	DC	
182. London, David	06-24-1948	DC	
183. Lott, Hubert E.	11-16-1980	DC	
184. MacCullen, Allen	09-01-1949	DC	
185. MacDonald, Eleanor S.	01-07-1980	NY	
186. Maguire, Joseph L.	08-01-1938	DC	
187. Maher, Thomas F.	05-11-1959	DC	
188. Maller, Abraham H.	04-30-1962	DC	
189. Maloney, Walter H. Jr.	02-26-1973	DC	
190. Marcionese, Michael	02-02-1997	A	
191. Martin, Alba B.	01-04-1950	DC	
192. Marx, Herman	10-04-1948	SF	
193. Maslow, Will	10-01-1941	DC	
194. McCarrick, John J.	12-31-2000	SF	
195. McCoy, Whitely P.	06-01-1939	DC	
196. McDonald, David P.	04-08-1979	SF	
197. McInerny, George	02-19-1978	DC	
198. McLeod, Philip P.	01-12-1981	A	
199. McNally, Patrick H.	08-01-1938	DC	
200. Metz, Albert	01-22-1995	SF	
201. Meyerson, Gregory Z.	06-03-2001	SF	
202. Midonick, Millard L.	01-01-1946	DC	
203. Miller, John C.	07-03-1977	DC	
204. Miller, Maurice M.	04-07-1945	SF	
205. Miller, Michael O.	01-05-1975	DC	
206. Miserendino, C. Richard	09-01-1996	DC	
207. Morio, Winifred D.	01-04-1981	NY	
208. Morris, D. Barry	06-15-1980	NY	
209. Morton, James F.	09-16-1979	NY	
210. Mouritsen, Frank A.	10-01-1941	DC	
211. Mullin, Robert E.	12-12-1949	DC	
212. Myatt, Gordon J.	01-16-1966	SF	e5-1-1977

213. Myers, Howard	08-01-1938	SF	
214. Nachman, Joseph I.	04-16-1962	DC	
215. Nasdor, Bruce	04-10-1977	DC	
216. Nations, Wallace H.	01-18-1981	DC	
217. Nelson, Timothy D.	09-05-1978	SF	
218. Ness, Bernard	07-02-1972	DC	
219. Newman, Ralph A.	10-01-1942 \supseteq	DC	
220. Norman, George	12-19-1976	DC	
221. O'Brien, George H.	06-17-1968	SF	
222. O'Meara, James J. Jr.	01-18-1981	DC	
223. Ohlbaum, Stanley N.	06-30-1963	DC	
224. Ordman, Arnold	04-20-1959●	DC	
225. Pacht, Arline	05-04-1980	DC	
226. Pannier, William J. III	08-12-1974	SF	
227. Paradise, James C.	06-01-1937 \supseteq	DC	
228. Parke, Lana H.	09-05-2000	SF	
229. Parkes, Frederic B. 2 nd	05-01-1945 \supseteq	DC	
230. Patton, Thomas M.	07-04-1999	SF	
231. Penfield, Louis S.	12-10-1962	SF	
232. Persons, Charles E.	06-01-1937 \supseteq	DC	
233. Peterson, Ivar H.	12-03-1962	DC	
234. Piper, Robert L.	11-1-1948 \equiv	SF	e5-30-1965
235. Plaine, Herzel H. E.	07-15-1965	DC	
236. Plost, Louis	04-13-1944	DC	
237. Pollack, Jay R.	12-4-1979	SF	
238. Pollack, Melvin	02-28-1966	DC	
239. Pope, William A. II	09-06-1981 \neq	DC	
240. Powell, George L.	02-11-1959	DC	
241. Powell, Webster	04-01-1938 \supseteq	DC	
242. Pratt, George O.	11-15-1937	DC	Chief Judge
243. Pulcini, Robert A.	12-31-2000	DC	
244. Raphael, Martin	01-01-1938 \supseteq	DC	
245. Rasbury, James T.	02-12-1959 \angle	SF	
246. Reel, Frederick U.	10-02-1961	DC	
247. Rein, David	01-01-1946 \supseteq	DC	
248. Reyman, Arthur E.	1-21-1953	DC	
249. Ricci, Thomas A.	06-15-1958	DC	
250. Riemer, Mortimer	02-01-1940 \supseteq	DC	
251. Ries, Bernard	11-18-1974	DC	
252. Ringer, William R.	10-01-1937	DC	Chief Judge
253. Robbins, Earldean V. S.	3-31-1974	SF	
254. Robertson, J. Pargen	11-14-1978	A	
255. Rockwell, Alvin J.	09-01-1937 \supseteq	DC	

256.Rogosin, Irving	06-01-1944≡	SF	e1-14-1964
257.Romano, Robert G.	01-02-1977	DC	
258.Rosas, Michael A.	08-25-2003	DC	
259.Rose, James L.	10-05-1975	SF	
260.Rosenberg, Max	01-14-1964	DC	
261.Rosenstein, Bruce D.	01-05-1997	DC	
262.Ross, Samuel	06-15-1958	DC	
263.Roth, Marvin	03-02-1975	DC	
264.Rotolo, Vincent M.	04-01-1959⊇	DC	
265.Royster, Wallace E.	03-05-1946	SF	
266.Rubin, Mark	11-04-2002	DC	
267.Ruckel, Horace A.	08-01-1938∈	DC	e8-2-1961
268.Ryan, W. Gerard	08-23-1948	DC	
269.Sahm, Henry S.	01-26-1953	SF	
270.Sandron, Ira	09-16-2002	DC	
271.Sarrica (Goicoechea), Jennie M.	06-11-1972	DC	
272.Saunders, Phil W.	04-15-1959	DC	
273.Scharnikow, William F.	05-12-1945	DC	
274.Schlesinger, Benjamin	07-18-1978	DC	
275.Schlezing, Anne (Freeling)	06-07-1968	DC	
276.Schmidt, Henry W. Jr.	08-01-1938⊇	DC	
277.Schmidt, William L.	12-03-1979	SF	
278.Schneider, Charles W.	10-12-1942	DC	Acting Chief
279.Schwarzbart, Robert M.	03-16-1975	DC	
280.Scott, William J.	05-01-1946⊇	DC	
281.Scully, Richard A.	01-18-1981	DC	
282.Seagle, William	04-01-1937∈	DC	e4-25-1960
283.Seff, Bernard J.	06-24-1968	DC	
284.Segal, Henry L.	12-01-1971⊇	DC	
285.Shamwell, Earl E. Jr.	01-19-1997	DC	
286.Shapiro, Jerrold H.	03-05-1972	SF	
287.Shaw, James A.	2-11-1946	DC	
288.Sherman, Nancy M.	01-23-1972	DC	
289.Sherman, Sidney	04-19-1960	DC	
290.Silberman, Herbert	04-27-1953≡	DC	e1-14-1964
291.Singer, Samuel M.	06-11-1962	DC	
292.Sinsheimer, Allen Jr.	02-23-1966	SF	
293.Smith, Edward Grandison	05-01-1937⊇	DC	
294.Smoot, T. B.	02-01-1946⊇	DC	
295.Snyder, Robert T.	05-04-1980	NY	
296.Socoloff, Irwin H.	05-02-1976	DC	
297.Somers, A. Norman	09-27-1954	DC	
298.Spencer, William E.	11-01-1941•	SF	e5-1-1942

299.Stevens, Russell L.	08-05-1973	SF	
300.Stevenson, Almira A.	03-05-1972	DC	
301.Stevenson, Michael D.	04-20-1979	SF	
302.Stone, Jerry B.	05-01-1962	DC	
303.Stout, C. Dale	10-01-1979 ≠	DC	
304.Strong, William	01-01-1943 [⊇]	DC	
305.Sugerman, Sidney	03-01-1940 [⊇]	DC	
306.Summers, Harold X.	10-16-1961	DC	
307.Taplitz, Richard D.	06-17-1968	SF	
308.Theeman, Benjamin A.	05-31-1968	DC	
309.Tocker, Herman	01-04-1965	DC	
310.Trunkes, Thomas T.	05-04-1981	NY	
311.Turitz, George	02-28-1966	DC	
312.Van Schaick, Guy	09-01-1939 [⊇]	DC	
313.Vandeventer, Jane	09-12-1999	DC	
314.Vickery, Merritt A.	08-01-1948 [⊇]	DC	
315.von Rohr, John P.	1-11-1960	DC	
316.Vose, Owsley	06-18-1959	DC	
317.Wacknov, Gerald A.	07-04-1976	SF	
318.Wagman, Leonard M.	02-12-1973	DC	
319.Waks, Myron S.	06-07-1968	DC	
320.Wallace, Robert T.	01-18-1981	DC	
321.Ward, Peter F.	02-01-1938 [⊇]	DC	
322.Webb, William P.	08-01-1938 [⊇]	DC	
323.Webster, James R.	01-14-1964	SF	
324.Weil, Paul E.	01-17-1966	DC	
325.Welles, Melvin J.	07-12-1970	DC	Chief Judge
326.Wells, Joseph C.	03-01-1946 [⊇]	DC	
327.Wenzel, Herbert	08-01-1938 [⊇]	DC	
328.West, John H.	01-18-1981	A	
329.Wheatley, Albert P.	12-13-1949	DC	
330.Wheaton, Carl C.	05-01-1942 [⊇]	DC	
331.Whittemore, Charles W.	08-01-1938	DC	
332.Wieder, Joan	07-16-1978	SF	
333.Wilbur, Walter B.	12-01-1935 [⊇]	DC	
334.Wilks, Thomas R.	02-01-1976	DC	
335.Williamson, Charles M.	10-14-1979	DC	
336.Wilson, E. Don	10-16-1961	SF	
337.Wilson, Thomas S.	08-01-1938 [≡]	DC	e2-1-1940
338.Winkler, Ralph	04-03-1950 [•]	DC	e5-25-1960
339.Wolfe, Claude R.	06-20-1976	DC	

340.Wood, Charles A.	12-01-1935	DC
341.Youngblood, James T.	10-13-1975	DC
342.Youngblood, W. Edwin	06-07-1962	DC
343.Zankel, Norman	01-16-1977	DC

[Author's Note: Just 343? After these nearly 70 years since Judge Walter Wilbur began presiding in December 1935, I vaguely had assumed that the number would be greater. Then there were those years from about 1970 to the mid-1980s when the number of judges annually averaged close to the 100 level, subliminally suggesting a total of several hundreds over the entire history of the Division.

As we now we see, our historical Judges Corps really is quite small. The Unified EOD List, the final list in this paper, shows the hiring progression through the years. Per the Unified list, it took a full dozen years to reach the first 100 level, that being Judge Albert P. Wheatley's arrival on December 13, 1949. The next 100 took over 18 years, as reflected in the June 17, 1968 arrival of Judge George H. O'Brien. Some 12-1/2 years later, the 300 mark was reached when Judge Wallace H. Nations (EOD 1-18-1981) arrived. Then the flow of new judges slowed. And over 22 years later, on August 25, 2003, just under a year ago, the arrival of Judge Michael A. Rosas increased our historical ranks to 343.]

SYMBOL — MARKED NAMES EXTRACTED FROM
ABC LIST

(Reproduced here for convenient review.)

A. All Names With The Symbol ⊇

	<u>NAME</u>	<u>EOD</u>	<u>OFFICE</u>	<u>NOTES</u>
1.	Baron, Max G.	05-01-1943⊇	DC	
2.	Barton, William B.	09-01-1939⊇	DC	
3.	Batten, James C.	05-01-1937⊇	DC	
4.	Bell, Berdon M.	04-01-1939⊇	DC	
5.	Binder, Samuel	02-01-1953⊇	DC	
6.	Bland, Theodore R.	08-01-1938⊇	DC	
7.	Bloom, Frank	05-01-1937⊇	DC	Chief Judge
8.	Boyd, Melton	07-01-1944⊇	DC	
9.	Campbell, Myers D.	09-01-1948⊇	DC	
10.	Cushman, Bernard	01-01-1943⊇	DC	
11.	Dalby, Dent D.	12-19-1952⊇	DC	
12.	Davidson, Mapes	10-01-1937⊇	DC	
13.	Denham, Robert N.	03-01-1938⊇	DC	
14.	Dudley, Tilford E.	06-01-1937⊇	DC	
15.	Eadie, Bertram G.	03-01-1950⊇	DC	
16.	Edes, Samuel	10-01-1941⊇	DC	
17.	Erickson, Gustaf B.	03-01-1938⊇	DC	
18.	Fitzpatrick, James J.	12-01-1937⊇	DC	
19.	Gardner, Hamilton	12-01-1948⊇	DC	
20.	Gates, Robert M.	01-01-1936⊇	DC	
21.	Greenberg, Isadore	04-01-1946⊇	DC	
22.	Gubbins, Joseph E.	03-01-1945⊇	DC	
23.	Guffey, William F. Jr.	02-01-1942⊇	DC	
24.	Hektoen, Josef L.	10-01-1939⊇	DC	
25.	Hill, Madison	01-01-1939⊇	DC	
26.	Hirschfield, Victor	01-01-1946⊇	DC	

27. Isaacson, William J.	04-01-1944	DC
28. Ivins, Richard N.	02-01-1953	DC
29. Jaffee, Samuel H.	12-01-1937	DC
30. Keirnan, Joseph F.	08-01-1938	DC
31. Kennedy, Thomas H.	10-01-1937	DC
32. Kent, Henry J.	06-01-1937	DC
33. Koretz, Robert F.	06-01-1942	DC
34. Laughlin, Loren H.	07-01-1953	DC
35. Lewis, John	04-01-1948	DC
36. Lindsay, John T.	10-01-1937	DC
37. Lohm, Albert L.	08-01-1938	DC
38. MacCullen, Allen	09-01-1949	DC
39. Maguire, Joseph L.	08-01-1938	DC
40. Maslow, Will	10-01-1941	DC
41. McCoy, Whitely P.	06-01-1939	DC
42. McNally, Patrick H.	08-01-1938	DC
43. Midonick, Millard L.	01-01-1946	DC
44. Mouritsen, Frank A.	10-01-1941	DC
45. Newman, Ralph A.	10-01-1942	DC
46. Paradise, James C.	06-01-1937	DC
47. Parkes, Frederic B. 2 nd	05-01-1945	DC
48. Persons, Charles E.	06-01-1937	DC
49. Powell, Webster	04-01-1938	DC
50. Raphael, Martin	01-01-1938	DC
51. Rein, David	01-01-1946	DC
52. Riemer, Mortimer	02-01-1940	DC
53. Rockwell, Alvin J.	09-01-1937	DC
54. Rotolo, Vincent M.	04-01-1959	DC
55. Schmidt, Henry W. Jr.	08-01-1938	DC
56. Scott, William J.	05-01-1946	DC
57. Segal, Henry L.	12-01-1971	DC
58. Smith, Edward Grandison	05-01-1937	DC
59. Smoot, T. B.	02-01-1946	DC
60. Strong, William	01-01-1943	DC
61. Sugerman, Sidney	03-01-1940	DC
62. Van Schaick, Guy	09-01-1939	DC
63. Vickery, Merritt A.	08-01-1948	DC
64. Ward, Peter F.	02-01-1938	DC
65. Webb, William P.	08-01-1938	DC
66. Wells, Joseph C.	03-01-1946	DC
67. Wenzel, Herbert	08-01-1938	DC

68. Wheaton, Carl C.	05-01-1942 \supseteq	DC	
69. Wilbur, Walter	12-01-1935 \supseteq	DC	
70. Wood, Charles A.	12-01-1935 \supseteq	DC	

B. All Names With The Symbol \varsubsetneq

1. Leff, Arthur	05-13-1944 \bullet	DC	e4-16-1951; C/J
2. Ordman, Arnold	04-20-1959 \bullet	DC	
3. Spencer, William E.	11-01-1941 \bullet	SF	e5-1-1942
4. Winkler, Ralph	04-03-1950 \bullet	DC	e5-25-1960

C. All Names With The Symbol \subsetneq

1. Bean, Stephen S.	02-01-1950 \subsetneq	DC	e10-3-1954
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D. All Names With The Symbol \subseteq

1. Hemingway, James R.	02-01-1943 \neq	SF	
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E. All Names With The Symbol \in

1. Eadie, John H.	09-25-1942 \equiv	DC	e11-25-1943
2. Feldesman, William	10-01-1943 \equiv	DC	e11-29-1971
3. Myatt, Gordon J.	01-16-1966 \equiv	SF	e5-1-1977
4. Piper, Robert L.	11-1-1948 \equiv	SF	e5-30-1965
5. Rogosin, Irving	06-01-1944 \equiv	SF	e1-14-1964
6. Ruckel, Horace A.	08-01-1938 \in	DC	e8-2-1961
7. Seagle, William	04-01-1937 \in	DC	e4-25-1960
8. Silberman, Herbert	04-27-1953 \equiv	DC	e1-14-1964
9. Wilson, Thomas S.	08-01-1938 \equiv	DC	e2-1-1940

F. All Names With The Symbol \notin

1. Pope, William A.	09-06-1981 \notin	DC	
2. Stout, C. Dale	10-01-1979 \notin	DC	

G. All Names With The Symbol \angle

1. Rasbury, James T.	02-12-1959 \angle	SF	
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H. All Names With The Symbol $|$

1. Karasick, David	07-01-1943 $ $	DC	e04-23-1962
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THE EOD LIST — ALL JUDGES BY OFFICE

EOD LIST OF JUDGES**BY LOCATION AND DATE ENTERED ON DUTY (EOD)
WITH JUDGES DIVISION****REGULAR STAFF JUDGES ONLY****WASHINGTON, D.C.**

Robert A. Giannasi is the current Chief Judge of the Division. The Deputy Chief Judge is Richard A. Scully. Both are stationed at the DC headquarters. The Associate Chief Judge position for DC currently is vacant.

Respecting the symbols following some of the EOD dates, please see the explanatory notes at the top of the ABC List.

	<u>NAME</u>	<u>EOD DATE</u>	<u>NOTES</u>
1.	Wilbur, Walter B.	12-01-1935 ^o	
2.	Wood, Charles A.	12-01-1935 ^o	
3.	Gates, Robert M.	01-01-1936 ^o	
4.	Seagle, William	04-01-1937 [≡]	e4-25-1960
5.	Batten, James C.	05-01-1937 ^o	
6.	Bloom, Frank	05-01-1937 ^o	Chief Judge
7.	Smith, Edward Grandison	05-01-1937 ^o	
8.	Dudley, Tilford E.	06-01-1937 ^o	
9.	Kent, Henry J.	06-01-1937 ^o	
10.	Paradise, James C.	06-01-1937 ^o	
11.	Persons, Charles E.	06-01-1937 ^o	
12.	Rockwell, Alvin J.	09-01-1937 ^o	
13.	Lindsay, John T.	10-01-1937 [≡]	
14.	Ringer, William R.	10-01-1937	Chief Judge
15.	Davidson, Mapes	10-01-1937 ^o	

16.	Kennedy, Thomas H.	10-01-1937 ∂	
17.	Pratt, George O.	11-15-1937	Chief Judge
18.	Fitzpatrick, James J.	12-01-1937 \supset	
19.	Jaffee, Samuel H.	12-01-1937 ∂	
20.	Raphael, Martin	01-01-1938 ∂	
21.	Bellman, Earl S.	02-01-1938	
22.	Bokat, George	02-01-1938	Chief Judge
23.	Ward, Peter F.	02-01-1938 ∂	
24.	Denham, Robert N.	03-01-1938 \supset	
25.	Erickson, Gustaf B.	03-01-1938 \supset	
26.	Powell, Webster	04-01-1938 ∂	
27.	Bland, Theodore R.	08-01-1938 ∂	
28.	Keirnan, Joseph F.	08-01-1938 \supset	
29.	Lohm, Albert L.	08-01-1938 \supset	
30.	Maguire, Joseph L.	08-01-1938 ∂	
31.	McNally, Patrick H.	08-01-1938 \supset	
32.	Ruckel, Horace A.	08-01-1938 ϵ	e8-2-1961
33.	Schmidt, Henry W. Jr.	08-01-1938 ∂	
34.	Webb, William P.	08-01-1938 \supset	
35.	Wenzel, Herbert	08-01-1938 \supset	
36.	Whittemore, Charles W.	08-01-1938	
37.	Wilson, Thomas S.	08-01-1938 \subset	e2-1-1940
38.	Hill, Madison	01-01-1939 ∂	
39.	Hunt, A. Bruce	03-18-1939	
40.	Bell, Berdon M.	04-01-1939 \supset	
41.	McCoy, Whitely P.	06-01-1939 \supset	
42.	Barton, William B.	09-01-1939 \supset	
43.	Van Schaick, Guy	09-01-1939 \supset	
44.	Hektoen, Josef L.	10-01-1939 \supset	
45.	Riemer, Mortimer	02-01-1940 \supset	
46.	Sugerman, Sidney	03-01-1940 \supset	
47.	Edes, Samuel	10-01-1941 \supset	
48.	Maslow, Will	10-01-1941 \supset	
49.	Mouritsen, Frank A.	10-01-1941 \supset	
50.	Guffey, William F. Jr.	02-01-1942 \supset	
51.	Wheaton, Carl	05-01-1942 \supset	
52.	Koretz, Robert F.	06-01-1942 \supset	
51.	Newman, Ralph A.	10-01-1942 \supset	
53.	Eadie, John H.	09-25-1942 \equiv	e11-25-1943
54.	Schneider, Charles W.	10-12-1942	Acting Chief Judge
55.	Cushman, Bernard	01-01-1943 \supset	

THE EOD LIST — ALL JUDGES BY OFFICE

56.	Strong, William	01-01-1943	⊇	
57.	Baron Max, G.	05-01-1943	⊇	
58.	Karasick, David	07-01-1943		e4-23-1962
59.	Feldesman, William	10-01-1943	≡	e11-29-1971
60.	Isaacson, William J.	04-01-1944	⊇	
61.	Plost, Louis	04-13-1944		
62.	Leff, Arthur	05-13-1944	•	e4-16-1951; Chief Judge
63.	Boyd, Melton	07-01-1944	⊇	
64.	Goldman, Max M.	07-03-1944		
65.	Feiler, Sidney	07-10-1944		
66.	Lindner, Sidney	09-21-1944		
67.	Gubbins, Joseph E.	03-01-1945	⊇	
68.	Parkes, Frederic B. 2d	05-01-1945	⊇	
69.	Scharnikow, William F.	05-12-1945		
70.	Hirschfield, Victor	01-01-1946	⊇	
71.	Midonick, Millard L.	01-01-1946	⊇	
72.	Rein, David	01-01-1946	⊇	
73.	Smoot, T. B.	02-01-1946	⊇	
74.	Shaw, James A.	02-11-1946		
75.	Wells, Joseph C.	03-01-1946	⊇	
76.	Greenberg, Isadore	04-01-1946	⊇	
77.	Scott, William J.	05-01-1946	⊇	
78.	Lewis, John	04-01-1948	⊇	
79.	Ferguson, Charles	05-14-1948		
80.	London, David	06-24-1948		
81.	Vickery, Merritt A.	08-01-1948	⊇	
82.	Dixon, Eugene E.	08-12-1948		
83.	Ryan, W. Gerard	08-23-1948		
84.	Campbell, Myers D.	09-01-1948	⊇	
85.	Downing, George A.	09-16-1948		
86.	Gardner, Hamilton	12-01-1948	⊇	
87.	MacCullen, Allen	09-01-1949	⊇	
88.	Hilton, Reeves R.	12-12-1949		
89.	Mullin, Robert E.	12-12-1949		
90.	Wheatley, Albert P.	12-13-1949		
91.	Asher, Sydney S. Jr.	12-27-1949		
92.	Frey, Eugene F.	01-03-1950		
93.	Martin, Alba B.	01-04-1950		
94.	Buchanan, Lloyd	01-18-1950		
95.	Bean, Stephen S.	02-01-1950	⊃	e10-3-1954
96.	Best, Lee J.	03-1-1950		

97.	Eadie, Bertram G.	03-01-1950	⊇	
98.	Winkler, Ralph	04-03-1950	•	e5-25-1960
99.	Fischer, John C.	10-15-1952		
100.	Corcoran, James A.	10-27-1952		
101.	Dalby, Dent D.	12-19-1952	⊇	
102.	Reyman, Arthur E.	01-21-1953		
103.	Binder, Samuel	02-01-1953	⊇	
104.	Ivins, Richard N.	02-01-1953	⊇	
105.	Kessel, Thomas N.	04-15-1953		Chief Judge
106.	Silberman, Herbert	04-27-1953	≡	e1-14-1964
107.	Laughlin, Loren	07-01-1953	⊇	
108.	Libbin, Louis	04-20-1954		
109.	Somers, A. Norman	09-27-1954		
110.	Ricci, Thomas A.	06-15-1958		
111.	Ross, Samuel	06-15-1958		
112.	Powell, George L.	02-11-1959		
113.	Donovan, Ramey	02-16-1959		
114.	Rotolo, Vincent M.	04-01-1959	⊇	
115.	Saunders, Phil W.	04-15-1959		
116.	Funke, John F.	04-16-1959		
117.	Foley, James F.	04-20-1959		
118.	Ordman, Arnold	04-20-1959	•	
119.	Maher, Thomas F.	05-11-1959		
120.	Vose, Owsley	06-18-1959		
121.	Dorsey, John H.	01-11-1960		
122.	von Rohr, John P.	01-11-1960		
123.	Bisgyer, Paul	01-24-1960		
124.	Bott, George J.	02-01-1960		
125.	Gillis, Wellington A.	02-08-1960		
126.	Sherman, Sidney	04-19-1960		
127.	Boyls, Fannie M.	04-25-1960		
128.	Brown, William J.	05-02-1960		
129.	Friedman, Morton D.	05-15-1960		
130.	Lipton, Benjamin B.	09-26-1961		
131.	Constantine, James V.	10-02-1961		
132.	Goldberg, Sidney D.	10-02-1961		
133.	Reel, Frederick U.	10-02-1961		
134.	Summers, Harold X.	10-16-1961		
135.	Nachman, Joseph I.	04-16-1962		
136.	Blake (Hulse), Rosanna A.	04-29-1962		
137.	Maller, Abraham H.	04-30-1962		
138.	Stone, Jerry B.	05-01-1962		
139.	Youngblood, W. Edwin	06-07-1962		

140.	Singer, Samuel M.	06-11-1962	
141.	Peterson, Ivar H.	12-03-1962	
142.	Knapp, Laurence A.	12-10-1962	
143.	Ohlbaum, Stanley N.	06-30-1963	
144.	Rosenberg, Max	01-14-1964	
145.	Kapell, William W.	05-24-1964	
146.	Bush, Maurice S.	01-04-1965	
147.	Tocker, Herman	01-04-1965	
148.	Leedom, Boyd S.	01-05-1965	
149.	Barban, Sidney J.	01-18-1965	
150.	Christopher, Arthur Jr.	01-18-1965	
151.	Cohn, Robert	01-18-1965	
152.	Hinkes, Harry R.	04-01-1965	
153.	Kuskin, Harry H.	04-15-1965	
154.	Davidson, David S.	04-19-1965	Chief Judge
155.	Goerlich, Lowell M.	04-19-1965	
156.	Plaine, Herzel H. E.	07-15-1965	
157.	Gregg, John G.	10-25-1965	
158.	Goldberg, Arthur M.	01-17-1966	
159.	Janus, Milton H.	01-17-1966	
160.	Klein, Josephine H.	01-17-1966	
161.	Ladwig, Marion C.	01-17-1966	
162.	Lieberman, Alvin	01-17-1966	
163.	Weil, Paul E.	01-17-1966	
164.	Dyer, John M.	02-28-1966	
165.	Turitz, George	02-28-1966	
166.	Pollack, Melvin	02-28-1966	
167.	Theeman, Benjamin A.	05-31-1968	
168.	Blackburn, Benjamin K.	06-07-1968	
169.	Fitzpatrick, James M.	06-07-1968	
170.	Jalette, Henry L.	06-07-1968	
171.	Schlezinger, Anne (Freeling)	06-07-1968	
172.	Waks, Myron S.	06-07-1968	
173.	Greenidge, Lloyd S.	06-17-1968	
174.	Seff, Bernard J.	06-24-1968	
175.	Welles, Melvin J.	07-12-1970	Chief Judge
176.	Goslee, Eugene G.	11-28-1971	Chief Judge
177.	Johnston, Thomas D.	11-29-1971	
178.	Itkin, Frank H.	11-29-1971	
179.	Segal, Henry L.	12-01-1971	
180.	Sherman, Nancy M.	01-23-1972	
181.	Stevenson, Almira A.	03-05-1972	
182.	Sarrica (Goicoechea), Jennie M.	06-11-1972	
183.	Ness, Bernard	07-02-1972	

184.	Herman, Irving M.	07-03-1972
185.	Corbley, John F.	10-29-1972
186.	Wagman, Leonard M.	02-12-1973
187.	Harmatz, Joel A.	02-12-1973
188.	Maloney, Walter H. Jr.	02-26-1973
189.	Harper, Paul L.	03-04-1973
190.	Gadsden, Elbert D.	06-11-1973
191.	Denison, Richard L.	03-25-1974
192.	Donnelly, Peter E.	05-01-1974
193.	Ries, Bernard	11-18-1974
194.	Miller, Michael O.	01-05-1975
195.	Bracken, Thomas E.	01-06-1975
196.	Roth, Marvin	03-02-1975
197.	Schwarzbart, Robert M.	03-16-1975
198.	Kirkwood, Platonina P.	08-04-1975
199.	King, Russell M. Jr.	08-31-1975
200.	Buschmann, Karl H.	09-28-1975
201.	Jacobs, William F.	10-05-1975
202.	Leiner, Robert W.	10-05-1975
203.	Youngblood, James T.	10-13-1975
204.	Wilks, Thomas R.	02-01-1976
205.	Frank, Abraham	05-02-1976
206.	Giannasi, Robert A.	05-02-1976
207.	Socoloff, Irwin H.	05-02-1976
208.	Battle, Joseph L.	05-31-1976
209.	Wolfe, Claude R.	06-20-1976
210.	Holley, Donald R.	11-21-1976
211.	Norman, George	12-19-1976
212.	Romano, Robert G.	01-02-1977
213.	Zankel, Norman	01-16-1977
214.	Kaplan, Irwin	01-16-1977
215.	Nasdor, Bruce	04-10-1977
216.	Miller, John C.	07-03-1977
217.	McInerny, George	02-19-1978
218.	Schlesinger, Benjamin	07-18-1978
219.	Evans, David L.	07-30-1978
220.	Bernard, Harold Jr.	04-08-1979
221.	Gross, Stephen J.	05-20-1979
222.	Williamson, Charles M.	10-14-1979
223.	Stout, C. Dale	10-1-1979
224.	Pacht, Arline	05-04-1980
225.	Gershuny, William	06-13-1980
226.	Lott, Hubert E.	11-16-1980
227.	Benard (Bittner), Mary Ellen R.	11-23-1980

Chief Judge

228.	Nations, Wallace H.	01-18-1981
229.	O'Meara, James J. Jr.	01-18-1981
230.	Scully, Richard A.	01-18-1981
231.	Wallace, Robert T.	01-18-1981
232.	Alprin, Walter J.	07-26-1981
233.	Beddow, Richard H. Jr.	07-26-1981
234.	Charno, Steven M.	09-06-1981
235.	Kolko, Burton S.	09-06-1981
236.	Pope, William A. II	09-06-1981 ✗
237.	Linsky, Martin J.	09-08-1981
238.	Aleman, George	01-22-1995
239.	Dowd, Judith A.	01-22-1995
240.	Amchan, Arthur	09-01-1996
241.	Miserendino, C. Richard	09-01-1996
242.	Kocol, William	09-15-1996
243.	Kern, Margaret	01-05-1997
244.	Rosenstein, Bruce D.	01-05-1997
245.	Shamwell, Earl E. Jr.	01-19-1997
246.	Hermele, Jerry M.	05-25-1997
247.	Fine, Eric M.	03-29-1999
248.	Vandeventer, Jane	09-12-1999
249.	Bogas, Paul A.	03-07-2000
250.	Clark, John T.	07-31-2000
251.	Pulcini, Robert A.	12-31-2000
252.	Buxbaum, Paul	06-04-2001
253.	Sandron, Ira	09-16-2002
254.	Rubin, Mark	11-04-2002
255.	Gontram, Joseph M.	01-13-2003
256.	Rosas, Michael A.	08-25-2003

SAN FRANCISCO

The San Francisco office opened about January 1951. Judge William E. Spencer was the first Associate Chief Judge. William L. Schmidt is the current Associate Chief Judge. Note that most, even all, of the first 10 judges named transferred at some point to SF from the Washington, D.C. office. All 10 probably did not transfer to San Francisco as soon as the office opened, but as work required. They are named on one or more rosters among the judges assigned to that office.

Even in later years, not every DC judge who eventually transferred to San Francisco did so right away. For example, Judge Henry S. Sahm (EOD 1-26-1953) is still in Washington as of the May 29, 1961 roster, but by the time of the June 30, 1970 roster, his name appears among those assigned to the San Francisco office. Effort has been made for this paper to list the name of the

judge at the office with which he or she is most associated. Judge Sahm, for example, appears on this San Francisco list rather than the DC list.

	<u>NAME</u>	<u>EOD</u>	<u>NOTES</u>
1.	Myers, Howard	08-1-1938	
2.	Spencer, William E.	11-1-1941●	e5-1-1942
3.	Hemingway, James R.	02-1-1943≠	
4.	Rogosin, Irving	06-1-1944≡	e1-14-1964
5.	Bennett, Martin S.	10-7-1944	
6.	Miller, Maurice M.	04-7-1945	
7.	Royster, Wallace E.	03-5-1946	
8.	Marx, Herman	10-4-1948	
9.	Piper, Robert L.	11-1-1948≡	e5-30-1965
10.	Doyle, David F.	02-27-1950	

San Francisco office opens about January 1951.

11.	Sahm, Henry S.	01-26-1953	
12.	Rasbury, James T.	02-12-1959∠	
13.	Kennedy, Eugene K.	02-24-1959	
14.	Lightner, Leo F.	03-9-1959	
15.	Gilbert, Stanley	04-25-1960	
16.	Barker, James T.	10-2-1961	
17.	Wilson, E. Don	10-16-1961	
18.	Penfield, Louis S.	12-10-1962	
19.	Webster, James R.	01-14-1964	
20.	Myatt, Gordon J.	01-16-1966≡	e5-1-1977
21.	Davis, David E.	01-17-1966	
22.	Sinsheimer, Allen Jr.	02-23-1966	
23.	Christensen, George	02-28-1966	
24.	Alexandre, Maurice	06-6-1966	
25.	Corenman, Herman	06-17-1968	
26.	O'Brien, George H.	06-17-1968	
27.	Taplitz, Richard D.	06-17-1968	
28.	Shapiro, Jerrold H.	03-5-1972	
29.	Jenson, James S.	10-1-1972	
30.	Boyce, Richard J.	03-4-1973	
31.	Stevens, Russell L.	08-5-1973	
32.	Robbins, Earldean V. S.	03-31-1974	

33.	Heilbrun, David G.	04-1-1974
34.	Pannier, William J. III	08-12-1974
35.	Rose, James L.	10-05-1975
36.	Holmes, Roger B.	01-18-1976
37.	Kennedy, James M. III	05-30-1976
38.	Wacknov, Gerald A.	07-4-1976
39.	Kennedy, Harold A.	02-13-1977
40.	Wieder, Joan	07-16-1978
41.	Nelson, Timothy D.	09-5-1978
42.	McDonald, David P.	04-8-1979
43.	Stevenson, Michael D.	04-20-1979
44.	Herzog, Frederick C.	07-1-1979
45.	Litvack, Burton	08-13-1979
46.	Schmidt, William L.	12-3-1979
47.	Pollack, Jay R.	12-4-1979
48.	Anderson, Clifford H.	01-2-1980
49.	Cracraft, Mary M.	01-22-1995
50.	Metz, Albert	01-22-1995
51.	Patton, Thomas M.	07-4-1999
52.	Parke, Lana H.	09-5-2000
53.	McCarrick, John J.	12-31-2000
54.	Meyerson, Gregory Z.	06-3-2001

NEW YORK

(The New York branch opened in September 1979 with Edwin H. Bennett as the first Associate Chief Judge. He was succeeded by Joel P. Biblowitz, the current Associate Chief Judge.)

	<u>Name</u>	<u>EOD</u>
1.	Cohn, Julius	04-14-1974
2.	Kleiman, Jesse	02-26-1978
3.	Herman, Arthur A.	09-16-1979
4.	Bennett, Edwin H.	09-16-1979
5.	Fish, Steven B.	09-16-1979
6.	Green, Raymond P.	09-16-1979
7.	Morton, James F.	09-16-1979
8.	Edelman, Howard	12-3-1979
9.	MacDonald, Eleanor S.	01-7-1980
10.	Snyder, Robert T.	05-4-1980
11.	Biblowitz, Joel P.	06-1-1980
12.	Morris, D. Barry	06-15-1980
13.	Morio, Winifred D.	01-4-1981

14.	Trunkes, Thomas T.	05-4-1981
15.	Davis, Steven	07-26-1981
16.	Lawrence, Harold B.	07-26-1981

ATLANTA

(The Atlanta branch opened in May 1980 with Hutton S. Brandon as the first Associate Chief Judge. He was succeeded in that capacity by William N. Cates, the current Associate Chief Judge.)

	<u>Name</u>	<u>EOD</u>
1.	Batson, Robert C.	04-3-1977
2.	Brandon, Hutton S.	06-8-1977
3.	Gritta, Robert A.	08-27-1978
4.	Robertson, J. Pargen	11-14-1978
5.	Cohen, Leonard N.	12-24-1978
6.	Grossman, Howard I.	05-4-1980
7.	Cates, William N.	06-1-1980
8.	Linton, Richard J.	07-13-1980
9.	Cullen, Lawrence W.	11-9-1980
10.	McLeod, Philip P.	01-12-1981
11.	West, John H.	01-18-1981
12.	Carson, George	09-1-1996
13.	Frye, D. Randall	01-14-1997
14.	Locke, Keltner	01-19-1997
15.	Marcionese, Michael	02-2-1997
16.	Brakebusch, Margaret G.	06-4-2001

UNIFIED EOD LIST OF ALL JUDGES

**FOREGOING EOD LIST OF JUDGES
WITH ALL OFFICES MERGED HERE
INTO ONE CHRONOLOGICAL LIST
BY DATE ENTERED ON DUTY (EOD)
WITH JUDGES DIVISION**

The Notes column is modified to show only each judge's office as reflected on the foregoing EOD List of Judges, except that a blank space indicates the DC office. Also, although some judges, as seen on the full EOD List, have supplemental EOD dates, for the purpose of this unified chronological EOD list, only the original EOD date is shown.

	<u>NAME</u>	<u>EOD DATE</u>	<u>NOTES</u>
1.	Wilbur, Walter B.	12-01-1935 ∂	
2.	Wood, Charles A.	12-01-1935 ∂	
3.	Gates, Robert M.	01-01-1936 ∂	
4.	Seagle, William	04-01-1937 \equiv	
5.	Batten, James C.	05-01-1937 ∂	
6.	Bloom, Frank	05-01-1937 ∂	
7.	Smith, Edward Grandison	05-01-1937 ∂	
8.	Dudley, Tilford E.	06-01-1937 ∂	
9.	Kent, Henry J.	06-01-1937 ∂	
10.	Paradise, James C.	06-01-1937 ∂	
11.	Persons, Charles E.	06-01-1937 ∂	
12.	Rockwell, Alvin J.	09-01-1937 ∂	
13.	Lindsay, John T.	10-01-1937 \supseteq	
14.	Ringer, William R.	10-01-1937	
15.	Davidson, Mapes	10-01-1937 ∂	
16.	Kennedy, Thomas H.	10-01-1937 ∂	
17.	Pratt, George O.	11-15-1937	

18.	Fitzpatrick, James J.	12-01-1937	⊇	
19.	Jaffee, Samuel H.	12-01-1937	⊇	
20.	Raphael, Martin	01-01-1938	⊇	
21.	Bellman, Earl S.	02-01-1938		
22.	Bokat, George	02-01-1938		
23.	Ward, Peter F.	02-01-1938	⊇	
24.	Denham, Robert N.	03-01-1938	⊇	
25.	Erickson, Gustaf B.	03-01-1938	⊇	
26.	Powell, Webster	04-01-1938	⊇	
27.	Bland, Theodore R.	08-01-1938	⊇	
28.	Keirnan, Joseph F.	08-01-1938	⊇	
29.	Lohm. Albert L.	08-01-1938	⊇	
30.	Maguire, Joseph L.	08-01-1938	⊇	
31.	McNally, Patrick H.	08-01-1938	⊇	
32.	Myers, Howard	08-01-1938		SF
33.	Ruckel, Horace A.	08-01-1938	€	
34.	Schmidt, Henry W. Jr.	08-01-1938	⊇	
35.	Webb, William P.	08-01-1938	⊇	
36.	Wenzel, Herbert	08-01-1938	⊇	
37.	Whittemore, Charles W.	08-01-1938		
38.	Wilson, Thomas S.	08-01-1938	⊇	
39.	Hill, Madison	01-01-1939	⊇	
40.	Hunt, A. Bruce	03-18-1939		
41.	Bell, Berdon M.	04-01-1939	⊇	
42.	McCoy, Whitely P.	06-01-1939	⊇	
43.	Barton, William B.	09-01-1939	⊇	
44.	Van Schaick, Guy	09-01-1939	⊇	
45.	Hektoen, Josef L.	10-01-1939	⊇	
46.	Riemer, Mortimer	02-01-1940	⊇	
47.	Sugerman, Sidney	03-01-1940	⊇	
48.	Edes, Samuel	10-01-1941	⊇	
49.	Maslow, Will	10-01-1941	⊇	
50.	Mouritsen, Frank A.	10-01-1941	⊇	
51.	Spencer, William E.	11-01-1941	•	SF
52.	Guffey, William F. Jr.	02-01-1942	⊇	
53.	Wheaton, Carl	05-01-1942	⊇	
54.	Koretz, Robert F.	06-01-1942	⊇	
55.	Newman, Ralph A.	10-01-1942	⊇	
56.	Eadie, John H.	09-25-1942	=	
57.	Schneider, Charles W.	10-12-1942		
58.	Cushman, Bernard	01-01-1943	⊇	

UNIFIED EOD LIST OF ALL JUDGES

59.	Strong, William	01-01-1943	⊇	
60.	Hemingway, James R.	02-01-1943	≠	SF
61.	Baron Max, G.	05-01-1943	⊇	
62.	Karasick, David	07-01-1943		
63.	Feldesman, William	10-01-1943	≡	
64.	Isaacson, William J.	04-01-1944	⊇	
65.	Plost, Louis	04-13-1944		
66.	Leff, Arthur	05-13-1944	•	
67.	Rogosin, Irving	06-01-1944	≡	SF
68.	Boyd, Melton	07-01-1944	⊇	
69.	Goldman, Max M.	07-03-1944		
70.	Feiler, Sidney	07-10-1944		
71.	Lindner, Sidney	09-21-1944		
72.	Bennett, Martin S.	10-07-1944		SF
73.	Gubbins, Joseph E.	03-01-1945	⊇	
74.	Miller, Maurice M.	04-07-1945		SF
75.	Parkes, Frederic B. 2d	05-01-1945	⊇	
76.	Scharnikow, William F.	05-12-1945		
77.	Hirschfield, Victor	01-01-1946	⊇	
78.	Midonick, Millard L.	01-01-1946	⊇	
79.	Rein, David	01-01-1946	⊇	
80.	Smoot, T. B.	02-01-1946	⊇	
81.	Shaw, James A.	02-11-1946		
82.	Wells, Joseph C.	03-01-1946	⊇	
83.	Royster, Wallace E.	03-05-1946		SF
84.	Greenberg, Isadore	04-01-1946	⊇	
85.	Scott, William J.	05-01-1946	⊇	
86.	Lewis, John	04-01-1948	⊇	
87.	Ferguson, Charles	05-14-1948		
88.	London, David	06-24-1948		
89.	Vickery, Merritt A.	08-01-1948	⊇	
90.	Dixon, Eugene E.	08-12-1948		
91.	Ryan, W. Gerard	08-23-1948		
92.	Campbell, Myers D.	09-01-1948	⊇	
93.	Downing, George A.	09-16-1948		
94.	Marx, Herman	10-04-1948		SF
95.	Piper, Robert L.	11-01-1948	≡	SF
96.	Gardner, Hamilton	12-01-1948	⊇	
97.	MacCullen, Allen	09-01-1949	⊇	
98.	Hilton, Reeves R.	12-12-1949		
99.	Mullin, Robert E.	12-12-1949		
100.	Wheatley, Albert P.	12-13-1949		

101.	Asher, Sydney S. Jr.	12-27-1949	
102.	Frey, Eugene F.	01-03-1950	
103.	Martin, Alba B.	01-04-1950	
104.	Buchanan, Lloyd	01-18-1950	
105.	Bean, Stephen S.	02-01-1950 _C	
106.	Doyle, David F.	02-27-1950	SF
107.	Best, Lee J.	03-01-1950	
108.	Eadie, Bertram G.	03-01-1950 _D	
109.	Winkler, Ralph	04-03-1950 _•	
110.	Fischer, John C.	10-15-1952	
111.	Corcoran, James A.	10-27-1952	
112.	Dalby, Dent D.	12-19-1952 _D	
113.	Reyman, Arthur E.	01-21-1953	
114.	Sahm, Henry S.	01-26-1953	SF
115.	Binder, Samuel	02-01-1953 _D	
116.	Ivins, Richard N.	02-01-1953 _D	
117.	Kessel, Thomas N.	04-15-1953	
118.	Silberman, Herbert	04-27-1953 _E	
119.	Laughlin, Loren	07-01-1953 _D	
120.	Libbin, Louis	04-20-1954	
121.	Somers, A. Norman	09-27-1954	
122.	Ricci, Thomas A.	06-15-1958	
123.	Ross, Samuel	06-15-1958	
124.	Powell, George L.	02-11-1959	
125.	Rasbury, James T.	02-12-1959 _F	SF
126.	Donovan, Ramey	02-16-1959	
127.	Kennedy, Eugene K.	02-24-1959	SF
128.	Lightner, Leo F.	03-09-1959	SF
129.	Rotolo, Vincent M.	04-01-1959 _D	
130.	Saunders, Phil W.	04-15-1959	
131.	Funke, John F.	04-16-1959	
132.	Foley, James F.	04-20-1959	
133.	Ordman, Arnold	04-20-1959 _•	
134.	Maher, Thomas F.	05-11-1959	
135.	Vose, Owsley	06-18-1959	
136.	Dorsey, John H.	01-11-1960	
137.	von Rohr, John P.	01-11-1960	
138.	Bisgyer, Paul	01-24-1960	
139.	Bott, George J.	02-01-1960	
140.	Gillis, Wellington A.	02-08-1960	
141.	Sherman, Sidney	04-19-1960	
142.	Boyls, Fannie M.	04-25-1960	
143.	Gilbert, Stanley	04-25-1960	SF

UNIFIED EOD LIST OF ALL JUDGES

144.	Brown, William J.	05-02-1960	
145.	Friedman, Morton D.	05-15-1960	
146.	Lipton, Benjamin B.	09-26-1961	
147.	Barker, James T.	10-02-1961	SF
148.	Constantine, James V.	10-02-1961	
149.	Goldberg, Sidney D.	10-02-1961	
150.	Reel, Frederick U.	10-02-1961	
151.	Summers, Harold X.	10-16-1961	
152.	Wilson, E. Don	10-16-1961	SF
153.	Nachman, Joseph I.	04-16-1962	
154.	Blake (Hulse), Rosanna A.	04-29-1962	
155.	Maller, Abraham H.	04-30-1962	
156.	Stone, Jerry B.	05-01-1962	
157.	Youngblood, W. Edwin	06-07-1962	
158.	Singer, Samuel M.	06-11-1962	
159.	Peterson, Ivar H.	12-03-1962	
160.	Knapp, Laurence A.	12-10-1962	
161.	Penfield, Louis S.	12-10-1962	SF
162.	Ohlbaum, Stanley N.	06-30-1963	
163.	Rosenberg, Max	01-14-1964	
164.	Webster, James R.	01-14-1964	SF
165.	Kapell, William W.	05-24-1964	
166.	Bush, Maurice S.	01-04-1965	
167.	Tocker, Herman	01-04-1965	
168.	Leedom, Boyd S.	01-05-1965	
169.	Barban, Sidney J.	01-18-1965	
170.	Christopher, Arthur Jr.	01-18-1965	
171.	Cohn, Robert	01-18-1965	
172.	Hinkes, Harry R.	04-01-1965	
173.	Kuskin, Harry H.	04-15-1965	
174.	Davidson, David S.	04-19-1965	
175.	Goerlich, Lowell M.	04-19-1965	
176.	Plaine, Herzel H. E.	07-15-1965	
177.	Gregg, John G.	10-25-1965	
178.	Myatt, Gordon J.	01-16-1966≡	SF
179.	Davis, David E.	01-17-1966	SF
180.	Goldberg, Arthur M.	01-17-1966	
181.	Janus, Milton H.	01-17-1966	
182.	Klein, Josephine H.	01-17-1966	
183.	Ladwig, Marion C.	01-17-1966	
184.	Lieberman, Alvin	01-17-1966	
185.	Weil, Paul E.	01-17-1966	
186.	Sinsheimer, Allen Jr.	02-23-1966	SF
187.	Christensen, George	02-28-1966	SF

188.	Dyer, John M.	02-28-1966	
189.	Turitz, George	02-28-1966	
190.	Pollack, Melvin	02-28-1966	
191.	Alexandre, Maurice	06-06-1966	SF
192.	Theeman, Benjamin A.	05-31-1968	
193.	Blackburn, Benjamin K.	06-07-1968	
194.	Fitzpatrick, James M.	06-07-1968	
195.	Jalette, Henry L.	06-07-1968	
196.	Schlezingher, Anne (Freeling)	06-07-1968	
197.	Waks, Myron S.	06-07-1968	
198.	Corenman, Herman	06-17-1968	SF
199.	Greenidge, Lloyd S.	06-17-1968	
200.	O'Brien, George H.	06-17-1968	SF
201.	Seff, Bernard J.	06-24-1968	
202.	Taplitz, Richard D.	06-17-1968	SF
203.	Welles, Melvin J.	07-12-1970	
204.	Goslee, Eugene G.	11-28-1971	
205.	Johnston, Thomas D.	11-29-1971	
206.	Itkin, Frank H.	11-29-1971	
207.	Segal, Henry L.	12-01-1971 [⊃]	
208.	Sherman, Nancy M.	01-23-1972	
209.	Shapiro, Jerrold H.	03-05-1972	SF
210.	Stevenson, Almira A.	03-05-1972	
211.	Sarrica (Goicoechea), Jennie M.	06-11-1972	
212.	Ness, Bernard	07-02-1972	
213.	Herman, Irving M.	07-03-1972	
214.	Jenson, James S.	10-01-1972	SF
215.	Corbley, John F.	10-29-1972	
216.	Wagman, Leonard M.	02-12-1973	
217.	Harmatz, Joel A.	02-12-1973	
218.	Maloney, Walter H. Jr.	02-26-1973	
219.	Boyce, Richard J.	03-04-1973	SF
220.	Harper, Paul L.	03-04-1973	
221.	Gadsden, Elbert D.	06-11-1973	
222.	Stevens, Russell L.	08-05-1973	SF
223.	Denison, Richard L.	03-25-1974	
224.	Robbins, Earldean V. S.	03-31-1974	SF
225.	Heilbrun, David G.	04-01-1974	SF
226.	Cohn, Julius	04-14-1974	NY
227.	Donnelly, Peter E.	05-01-1974	
228.	Pannier, William J. III	08-12-1974	SF
229.	Ries, Bernard	11-18-1974	
230.	Miller, Michael O.	01-05-1975	
231.	Bracken, Thomas E.	01-06-1975	

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232.	Roth, Marvin	03-02-1975	
233.	Schwarzbart, Robert M.	03-16-1975	
234.	Kirkwood, Platonina P.	08-04-1975	
235.	King, Russell M. Jr.	08-31-1975	
236.	Buschmann, Karl H.	09-28-1975	
237.	Jacobs, William F.	10-05-1975	
238.	Leiner, Robert W.	10-05-1975	
239.	Rose, James L.	10-05-1975	SF
240.	Youngblood, James T.	10-13-1975	
241.	Holmes, Roger B.	01-18-1976	SF
242.	Wilks, Thomas R.	02-01-1976	
243.	Frank, Abraham	05-02-1976	
244.	Giannasi, Robert A.	05-02-1976	
245.	Socoloff, Irwin H.	05-02-1976	
246.	Kennedy, James M. III	05-30-1976	SF
247.	Battle, Joseph L.	05-31-1976	
248.	Wolfe, Claude R.	06-20-1976	
249.	Wacknov, Gerald A.	07-04-1976	SF
250.	Holley, Donald R.	11-21-1976	
251.	Norman, George	12-19-1976	
252.	Romano, Robert G.	01-02-1977	
253.	Zankel, Norman	01-16-1977	
254.	Kaplan, Irwin	01-16-1977	
255.	Kennedy, Harold A.	02-13-1977	SF
256.	Batson, Robert C.	04-03-1977	A
257.	Nasdor, Bruce	04-10-1977	
258.	Brandon, Hutton S.	06-08-1977	A
259.	Miller, John C.	07-03-1977	
260.	Kleiman, Jesse	02-26-1978	NY
261.	McInerney, George	02-19-1978	
262.	Wieder, Joan	07-16-1978	SF
263.	Schlesinger, Benjamin	07-18-1978	
264.	Evans, David L.	07-30-1978	
265.	Gritta, Robert A.	08-27-1978	A
266.	Nelson, Timothy D.	09-05-1978	SF
267.	Robertson, J. Pargen	11-14-1978	A
268.	Cohen, Leonard N.	12-24-1978	A
269.	Bernard, Harold Jr.	04-08-1979	
270.	McDonald, David P.	04-08-1979	SF
271.	Stevenson, Michael D.	04-20-1979	SF
272.	Gross, Stephen J.	05-20-1979	
273.	Herzog, Frederick C.	07-01-1979	SF
274.	Litvack, Burton	08-13-1979	SF
275.	Herman, Arthur A.	09-16-1979	NY

276.	Bennett, Edwin H.	09-16-1979	NY
277.	Fish, Steven B.	09-16-1979	NY
278.	Green, Raymond P.	09-16-1979	NY
279.	Morton, James F.	09-16-1979	NY
280.	Williamson, Charles M.	10-14-1979	
281.	Stout, C. Dale	10-01-1979 ¢	
282.	Edelman, Howard	12-03-1979	NY
283.	Schmidt, William L.	12-03-1979	SF
284.	Pollack, Jay R.	12-04-1979	SF
285.	Anderson, Clifford H.	01-02-1980	SF
286.	MacDonald, Eleanor S.	01-07-1980	NY
287.	Grossman, Howard I.	05-04-1980	A
288.	Pacht, Arline	05-04-1980	
289.	Snyder, Robert T.	05-04-1980	NY
290.	Biblowitz, Joel P.	06-01-1980	NY
291.	Cates, William N.	06-01-1980	A
292.	Gershuny, William	06-13-1980	
293.	Morris, D. Barry	06-15-1980	NY
294.	Linton, Richard J.	07-13-1980	A
295.	Cullen, Lawrence W.	11-09-1980	A
296.	Lott, Hubert E.	11-16-1980	
297.	Benard (Bittner), Mary Ellen R.	11-23-1980	
298.	Morio, Winifred D.	01-04-1981	NY
299.	McLeod, Philip P.	01-12-1981	A
300.	Nations, Wallace H.	01-18-1981	
301.	O'Meara, James J. Jr.	01-18-1981	
302.	Scully, Richard A.	01-18-1981	
303.	Wallace, Robert T.	01-18-1981	
304.	West, John H.	01-18-1981	A
305.	Trunkes, Thomas T.	05-04-1981	NY
306.	Alprin, Walter J.	07-26-1981	
307.	Beddow, Richard H. Jr.	07-26-1981	
308.	Davis, Steven	07-26-1981	NY
309.	Lawrence, Harold B.	07-26-1981	NY
310.	Charno, Steven M.	09-06-1981	
311.	Kolko, Burton S.	09-06-1981	
312.	Pope, William A. II	09-06-1981 ¢	
313.	Linsky, Martin J.	09-08-1981	
314.	Aleman, George	01-22-1995	
315.	Cracraft, Mary M.	01-22-1995	SF
316.	Dowd, Judith A.	01-22-1995	
317.	Metz, Albert	01-22-1995	SF
318.	Amchan, Arthur	09-01-1996	
319.	Carson, George	09-01-1996	A

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320.	Miserendino, C. Richard	09-01-1996	
321.	Kocol, William	09-15-1996	
322.	Kern, Margaret	01-05-1997	
323.	Rosenstein, Bruce D.	01-05-1997	
324.	Frye, D. Randall	01-14-1997	A
325.	Locke, Keltner	01-19-1997	A
326.	Shamwell, Earl E. Jr.	01-19-1997	
327.	Marcionese, Michael	02-02-1997	A
328.	Hermele, Jerry M.	05-25-1997	
329.	Fine, Eric M.	03-29-1999	
330.	Patton, Thomas M.	07-04-1999	SF
331.	Vandeventer, Jane	09-12-1999	
332.	Bogas, Paul A.	03-07-2000	
333.	Clark, John T.	07-31-2000	
334.	Parke, Lana H.	09-05-2000	SF
335.	McCarrick, John J.	12-31-2000	SF
336.	Pulcini, Robert A.	12-31-2000	
337.	Brakebusch, Margaret G.	06-04-2001	A
338.	Meyerson, Gregory Z.	06-03-2001	SF
339.	Buxbaum, Paul	06-04-2001	
340.	Sandron, Ira	09-16-2002	
341.	Rubin, Mark	11-04-2002	
342.	Gontram, Joseph M.	01-13-2003	
343.	Rosas, Michael A.	08-25-2003	

CONCLUDING NOTE

Hopefully this is the beginning. The start for a continuing project of assembling and preserving a record that each of us has passed this way. As mentioned earlier, the most practical way for a continuation would seem to be by annual supplements. I hope to do the first one.

And to close this opening chapter, perhaps a fitting line is found in that 1970 song (copyright by Harold Reid and Don Reid) sung by **The Statler Brothers**, a song with enduring popularity since its debut in 1972, *The Class of '57*:

And the Class of all of us
Is just part of History.

Best wishes to all, and to all this blessing from *Numbers* 6:24-26:

The Lord bless you and keep you.
The Lord let his face shine upon you,
and be gracious to you.
The Lord look upon you kindly and
give you peace.

Dick Linton

E-mailed comments, corrections, new information, photos, and suggestions for improvement for this paper or any annual supplements are welcome:

August 1, 2004
Katy, Texas

Richard J. Linton
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(EOD 7-13-1980; Retired, 11-2-2001)
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